

# PARLIAMENTARY DEBATES OF SIGNIFICANCE TO THE WAITANGI TRIBUNAL

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## 1969

**2 July, 35<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 361, pp1077-1085**

### Treaty of Waitangi

**A McCready** tables the report of the Maori Affairs Committee on the petition of Hori Ngawai and 23 others requesting that the Treaty be ratified, the petition stating: "*We, your Maori people of New Zealand do hereby petition that the Treaty of Waitangi be raised up and given authority under the power of the Almighty so that it will be sacred and inviolate forever*". Committee has no recommendation on the petition. Lists Maori opposition to ratification of

Treaty (Apirana Ngata, Eruera Tirikatene, New Zealand Maori Council) on the basis that ratification would lend Treaty to amendment or repeal. States that current petitioners would not likely seek ratification if they understood what that course would entail.

*Tirikatene-Sullivan* states that petition sought not necessarily ratification, but confirmation of fulfilling of a promise.

*M Rata* makes some interesting comments, including "I believe that it is not beyond the powers of this House to take some practical steps to ensure that legislation does not conflict with the principles set out in the Treaty."

## 1971

6 July, 36<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 373, p1803

### Questions & Replies

*M Rata* asks what progress has been made on the proposed ratification of the Treaty

*D J Riddiford (Min of Justice)* replies that the Government is still examining the possibility but few advantages, substantial objections. Impractical, and may depreciate Treaty's status. Government has always acknowledged Treaty has binding moral force. Proper approach may be to examine specific claims that current law fails to comply with the Treaty.

12 Aug, 36<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 373, p2293

### Answers to Oral Questions – Treaty of Waitangi

*Hunt* asks in light of s5(h) of the Acts Interpretation Act (stating that any schedule to an Act is part of that Act), and the fact that the Treaty is contained in a schedule to the Waitangi Day Act 1960, whether it can now be said that the Treaty has been ratified.

*D J Riddiford (Min of Justice)* replies NO basically, saying that scheduling of Treaty does not necessarily mean that it has force of law, merely for reference purposes.

18 Aug, 36<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 373, pp2456-2461

### Ngaitahu Claim Settlement

*Tombleson* presents the report of the Maori Affairs Committee on the petition of Frank D. Winter and 2,508 others, praying for the revocation of the Ngaitahu Claim Settlement Act 1944 and the enacting of legislation to provide for \$20,000 annual payments to Ngaitahu Trust Board in perpetuity. Committee has no recommendation on the petition. Says although the committee was sympathetic toward the petitioners, they could not give a favourable recommendation on the petition. Says petitioners claim that the 1944 was only accepted by a handful of the beneficiaries and was never accepted by the Ngaitahu tribe as a whole to be a final and equitable settlement. Says evidence before the committee showed that this was not the case, and that the settlement was extensively endorsed and supported by Ngaitahu at the time.

*Tirikatene-Sullivan* says that although the petitioners were sincere, the petition was doomed for failure because of the way in which it was formulated.

*M Rata* says Ngaitahu board is a responsible body, is not overambitious in their requests and is working only in the interests of its beneficiaries, so sees no reason why payments should not be made in perpetuity.

*J Luxton* says if the petition was agreed to, every other settlement would have to be opened up for renegotiation.

**19 Aug, 36<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 373, pp2490-2491**

**Answers to Oral Questions – Treaty of Waitangi**

*Hunt* asks (in relation to 12 Aug question) about ratification of International treaties and their inclusion as schedules in ratifying Act. Not important.

**20 Aug, 36<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 374, pp2551-2569**

**New Zealand Day Bill** (Introduction and First Reading)

*M Rata* introduces New Zealand Day Bill as a Private Member's Bill. Provides for 6 Feb as non-Mondayised public holiday. States that this is the first of any legislative steps that need to be taken to secure just and proper recognition of the Treaty.

Debate that follows mostly concerns cost of public holiday. Scattered references to Treaty but mostly just "two nations, one people" political rhetoric.

**25 Aug, 36<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 374, pp2638-2639**

**Answers to Oral Questions – Treaty of Waitangi**

*Hunt* asks another question related to 12 & 19 Aug questions.

*Riddiford (Min of Justice)* answers and states that the method of alienation of land provided in the Treaty has been superseded by subsequent Maori Land statutes. Method of

alienation of land contained in Treaty worked to the injustice of Maori and was replaced by a much fairer system.

**31 Aug, 36<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 374, pp2820-2828**

### **Treaty of Waitangi**

**Tomblason** tables the report of the Maori Affairs Committee on the petition of Makere Rangiata Ralph Love praying for action to inform the United Kingdom Government that the proposed Immigration Bill affects the guarantees made under the Treaty of Waitangi. Committee has no recommendation. Says it is the committee's opinion that the British Immigration Bill does not affect the rights and privileges of Maori as British subjects, and accordingly does not derogate from article 3 of the Treaty. Says at the time of the signing of the Treaty, being a British subject meant that regardless of place of residence, that person was of British nationality. Says that this is no longer the case, and that today the rights attached to the status of British subjects is governed by each individual Commonwealth country.

**Amos** stresses the point that the Treaty is no longer an agreement between Maori and the Sovereign of Great Britain, referring to a "very natural and inevitable erosion in the relationship between the Maori people and the Queen". Says, referring to rate of remuneration and basic civil rights, that Maori were not able to enjoy the rights guaranteed by the third article of the Treaty until the advent of the first Labour Government.

**D MacIntyre (Min of Maori Affairs)** notes that the Opposition in British Parliament introduced an amendment to the Immigration Bill stating "That nothing in the Act shall be construed as to derogate from any right or privilege enjoyed by any person by virtue of the Treaty of Waitangi, 1840". Goes through the changes brought about by British Immigration Bill. Says that article 3 does not guarantee to Maori a right of unrestricted entry to the United Kingdom.

**Kirk (Leader of Opposition)** states that although the Treaty is an important and historic document, "I cannot see that it would serve the advancement of the Maori or the European to try to put the clock back, as it were, as far as the Treaty is concerned".

**J Hunt** says that although he is not suggesting that the Treaty be ratified, that the Treaty should somehow be incorporated in municipal law.

Other members severally state that the responsibility of carrying out the spirit of the Treaty rests with the New Zealand Government, and that the Treaty is not a legal document but that it carries moral obligations.

## **1972**

**14 Sept, 36<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 380, pp2552-2558**

### **Ngaitahu Settlement**

**Tomblason** tables the report of Maori Affairs Committee on petition of Frank Winter and 2,508 others (see above, 18 Aug 1971). Says that the committee has given further



consideration to the petition and confirmed its report of 18 Aug 1971. No recommendation, prayer of the petition incorrectly framed.

Debate refers to validity of claim, good work of Ngai Tahu Trust Board, says that Ngai Tahu should restate their petition. [Little reference to Treaty, but interesting in that it shows how grievances were dealt with].

## 1973

**14 Mar, 37<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 382, pp793-797**

**New Zealand Day Bill** (Introduction and First Reading)

*Muldoon* asks whether scheduling of Treaty purports to fulfil Labour's election promise to "examine a practical means of legally acknowledging the principles of the Treaty of Waitangi".

*M Rata* replies NO. Labour's election manifesto contained two promises, the first being to recognise 6 Feb as a national holiday, and the second to examine possibility of legal recognition of Treaty. In the process of completing second part.

Debate that follows focusses mostly on cost of public holiday.

**1 Aug, 37<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 385, pp2886-2902**

**New Zealand Day Bill** (Second Reading)

**NB** M Rata not present.

More discussion of cost, some discussion of race relations, and more Treaty rhetoric.

**17 Oct, 37<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 387, pp4426**

**New Zealand Day Bill** (Third Reading)

No debate.

## 1974

**19 Feb, 37<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 389, pp212-213**

**Address in Reply**

*M Rata (Min of Maori Affairs)* talks about NZ Day Act, first NZ Day. Refers again to two Labour election promises with regard to Treaty, second of which is to "examine practical means of acknowledging the principles of the Treaty of Waitangi". Refers to *Report by Caucus Committee* about legal recognition of Treaty, says it will be made public. Also talks about November 1973 *White Paper on Maori Affairs*. Says a Bill will soon follow the proposals of the White Paper.

**8 Nov, 37<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 395, pp5725-5729**

**Treaty of Waitangi Bill** (introduction and First Reading)

**M Rata (Min of Maori Affairs)** refers to Caucus Committee report. Details structure and function of proposed Tribunal. States that he has personal reservations about fact that it's not retrospective. Says it's a move forward.

**Muldoon** makes interesting criticism focussed on Tribunal having to come up with Treaty principles itself, recommendatory only, more apparent than real. Stated that it was unusual for a Minister to have personal reservations about his own Bill.

**Dr Wall** says Maori are aware that it's non-retroactive, but one of their best qualities is that they're realistic.

**McCready** says Eruera Tirikatene and Apirana Ngata opposed this kind of thing, should recognise the spirit of the Treaty.

**Tirikatene-Sullivan** said they didn't oppose this, opposed the Treaty itself going on statute book because then amenable to amendment or repeal.

**M Rata** moved that the Bill be referred to the Maori Affairs Committee and that during the taking of evidence, the proceedings be open to the news media. Motion agreed to.

## 1975

**21 Aug, 37<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 400, pp3807-3808**

**Treaty of Waitangi Bill** (Report of Maori Affairs Committee on Bill)

Maori Affairs Committee reporting back on Bill w/ amendments. Some disagreement over whether Opposition members were promptly provided with copies of the amendments. No debate on substance of the Bill.

**10 Sept, 37<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 401, pp4342-4346**

**Treaty of Waitangi Bill** (Second Reading)

**M Rata** details how Tribunal is to work, says again it's not retrospective, but maybe later it will become so, interesting at the end how he says, "Will do much to settle deeply-felt and long-standing grievances" even though it has no retro powers yet.

**Young** says no substance, not retro, quotes a lot of what was said before the Select Committee, does it work as a Court, should it not be able to initiate its own inquiry, no more than window dressing. "Deploras" the fact that the debate is being undertaken at such a late hour and while Parliament is off air (sometime between 11:19 and 11:56pm).

*Debate interrupted*

**14 Sept**

*Land March sets out from Te Hapua in the Far North.*

**16 Sept, 37<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 401, pp4495-4500**

**Treaty of Waitangi Bill** (Second Reading cont.)

**Tirikatene-Sullivan** refers to various submissions made to select committee in support of Bill. Says it's not retroactive, but Labour Govt has a good record of settling historical grievances. May become retro in future.

**Birch** says it's window dressing. Outlines some major criticisms of the Bill, can't review legislation of own initiative etc.

**Reweti** Part of reason not retro because of question of what happens to forests and other assets on the land if land reverts to Maori.

**8 Oct, 37<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 402, p5318**  
**Treaty of Waitangi Bill** (In Committee)

Amendments made by MAC read in, no debate.

**10 Oct, 37<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 402, pp5406-5408**  
**Treaty of Waitangi Bill** (Third Reading)

**Young** recites common criticisms. Refers again to lateness of the hour.

**M Rata** says only material disagreement at Select Committee was about retroactivity. Government examined this and decided against it because of the complexity of the issues involved.

**NOTE** – Urgency was accorded to the Treaty of Waitangi Bill prior to its Second Reading being completed (see Vol 401, p4456), prior to its Committee stage (see Vol 402, p5282), and prior to its Third Reading (see Vol 402, p5343, p5395).

**13 Oct**

*Land March converges on the Beehive, and a petition (Memorial of Rights) is presented to the Government. Prayer of the petition – "That an enactment of Parliament that enshrines the spirit and intendment of this memorial shall incorporate in it the protective principle of entrenchment whereby it shall not suffer appeal or amendment without the assent of the Maori people, such assent to be forthcoming by the expression of a majority of all those persons eligible to vote as Maoris in a National Referendum."*

*"That all pernicious clauses in every statute of the present day or in new statutes in the future which have the power to take Maori land, alienate Maori land, designate Maori land, or confiscate Maori land, be repealed and never to be administered on the remaining Maori land at the present day, and whereas management, retention and control remain with our Maori people and their descendants in perpetuity."*

## 1976

**6 August, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 404, pp1367-1379**  
**Waitangi Day Bill** (Introduction and First Reading)

**Highet** introduces Waitangi Day Bill which renames "New Zealand Day" as "Waitangi Day". Says that referring to 6 Feb as NZ Day undermines the significance of the signing of the Treaty.

**M Rata** asks when appointments will be made to Tribunal, started 1 April, still not appointed. See also p1369. Asks whether Government intends to invest Tribunal with power necessary to deal with all matters relating to the Treaty [seems to be a veiled way of asking whether National Government intends to give the Tribunal retrospective powers]. Says renaming 6 Feb Waitangi Day is a purely political move.

**Muldoon (Prime Minister)** refers again to Treaty of Waitangi Bill being brought through in dying hours of last session of Parliament, says it's all window dressing. Says the Treaty of Waitangi Act was designed to give the impression that the Labour Government was honouring an election promise when it was not doing so in reality (the promise to "ratify" or write the Treaty into law).

**K Wetere** refutes Muldoon by referring to 1972 Labour Party manifesto – "A Labour Government will also examine a practical means of legally acknowledging the principles set out in the Treaty of Waitangi".

**Tirikatene-Sullivan** says the Bill is a meaningless gesture compared with the many things Maoridom would like to have seen happen. Says Maori more anxious that Treaty of Waitangi Act be implemented.

**2 Sept, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 405, pp2272-2279**

**Waitangi Day Bill** (Second Reading)

**Tirikatene-Sullivan** again says that Maori would have preferred implementation of Treaty of Waitangi Act 1975. Refers to difference of meaning in English and Maori versions – kawanatanga, tino rangatiratanga, sovereignty etc.

**13 Oct, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 406, 3110**

**Questions and Replies - Treaty of Waitangi Act**

**M Rata** asks Minister of Maori Affairs whether the Government intends to give effect to the Treaty of Waitangi Act and if so, when the Minister proposes to appoint the Tribunal.

**D MacIntyre (Min of Maori Affairs)** replies that consideration is being given to meeting the objects of the Act by setting up a Human Rights Commission (of which Tribunal may be an element). Until that proposal is reviewed Tribunal will not be appointed.

**20 Oct, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 407, p3215**

**Waitangi Day Bill** (In Committee)

Maori version of Treaty added to Bill schedule (formerly only English version).

**27 Oct, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 407, p3424**

**Waitangi Day Bill** (Third Reading)

**M Rata** says that too often (as is the case with the current Bill) the Treaty is regarded as a symbol by the Government, while it is regarded as a reality by Maori, and that is why the Labour Government enacted the Treaty of Waitangi Act.

**5 Nov, 38<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 406, pp3684-3685**

**Answers to Oral Questions - Treaty of Waitangi Tribunal**

**M Rata** asks Minister of Maori Affairs in view of a number of cases pending in the Supreme and Magistrate's Court in Auckland awaiting appointment of the Tribunal, why the Government had not acted on the law as set out in the Treaty of Waitangi Act.

*D MacIntyre (Min of Maori Affairs)* says no applications to be heard by the Tribunal had officially arrived at the Department until the week before. Proceeding now to appoint Tribunal. Question transferred to Supplementary Order Paper.

## 1977

### *June*

*Waitangi Tribunal hears first two claims in ballroom of Intercontinental Hotel.*

**8 Dec, 38<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Hansard Vol 416, pp5195-5200**

### **Report of Maori Affairs Committee on Petition – Maori Land Alienation**

*J Bolger* presents the report of the Maori Affairs Committee on the petition of Dame Whina Cooper and 1760 others (Land March petition or "Memorial of Rights") praying that there be no further alienation of Maori land. Committee recommended that petition be referred to Government for inquiry. Says committee was unanimously against referring to the Government the proposal that all Maori land be protected from alienation in perpetuity. Petitioners also proposed the establishment of a Maori Land Commission, but the committee was also against this proposal. On proposals that there should be encouragement by law for the return of some land to its former Maori status, an exchange of land for Maori land taken for public works, and the protection of sacred and historic sites as reserves, the committee felt these were matters on which the Government could take action.

*M Rata* talks about land march and details Maori land grievances. Says the House should make a declaration that Maori land holdings should not fall below their current level.

## 1978

### *March*

*Waitangi Tribunal issues first report on claim of Joe Hawke (Wai 1), with no recommendation.*

**2 June, 38<sup>th</sup> Parliament, 4<sup>th</sup> Session, Hansard Vol 417, p584**

### **Answers to Oral Questions – Maori Land Grievances**

*M Rata* asks Minister of Maori Affairs whether there exist any plans for establishing some means of allowing Maori people to have their land grievances considered and remedied.

*D MacIntyre (Min of Maori Affairs)* examining the possibility of enlarging the duties of the Maori Land Board and Maori Land Advisory Committee.

**2 June, 38<sup>th</sup> Parliament, 4<sup>th</sup> Session, Hansard Vol 417, p759**

### **Answers to Oral Questions**

*Tirikatene-Sullivan* asks Minister of Maori Affairs in view of his answer to the question dated 2 June, to suggest various ways Maori might ensure the Government will direct its attention to land claims.

*D MacIntyre (Min of Maori Affairs)* suggests normal channels – petitions to Parliament, representations to Minister, via bodies such as the New Zealand Maori Council.

## 1980

22 Oct, 39<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 434, p4324

### Answers to Oral Questions – Maori Land

*Dr Gregory* asks Minister of Justice what have been the findings of the committee set up by the Government to investigate Maori lands following the Land March.

*J McLay* says he assumes the member is referring to an officials committee set up in response to a Cabinet invitation in 1978 to examine the circumstances in which land acquired by the Crown or by local authorities, and not needed for the purposes of its acquisition, should be offered back to the former owners or their successors. Says that this is the only committee in the relevant field that comes under his responsibility as Minister of Justice. Says that the committee's terms of reference were not limited to Maori land and that the committee's recommendations were now being considered by a Cabinet committee.

*Dr Gregory* says his question was about the assurance the Prime Minister gave to Maori at the time that the Land March converged on Parliament. Says he is not sure that this is connected to the committee referred to, and asks whether his question should be referred to the Prime Minister.

*J McLay* re the Prime Minister's assurance, says the Government has acted in a number of ways, including the awarding of compensation for land in Tauranga.

20 Nov, 39<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 435, p5144

### Petition – Ngai Tahu Trust Board

*Maori Affairs Committee* considered the petition of the Ngai Tahu Trust Board requesting a Commission of Inquiry into the sale and use of ancestral lands and loss of fishing rights. Committee refers the petition to Government for favourable consideration. [May be useful in comparing the way in which grievances were processed and dealt with before the Tribunal had retrospective powers]. (See also Vol 436, p5769 for reports on petitions by Titi Tihu requesting that the bed of the Wanganui River and Mt Taranaki be vested in eight named Maori tribes).

## 1983

### *17 March*

*Waitangi Tribunal issues Motunui-Waitara Report (Wai 6). Tribunal found that Crown had failed to recognise Māori interests guaranteed by the Treaty such interests should have been taken into account. Tribunal recommended (among other things) that proposal for an ocean outfall at Motunui be discontinued.*

3 May, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 450, pp658-675

### Synthetic Fuels Plant (Water Right) Empowering Bill (Introduction and First Reading)

*W Birch (Min of Energy)* states that the Bill was prepared in response to the first two recommendations of the Waitangi Tribunal in the Motunui report, namely that the Government not proceed with the construction of an outfall Motunui, and that the

Government should seek an interim arrangement to use the Waitara Borough Council's outfall. Sets out the reasons why this option was not adopted from the outset (cost, considerable amount of work required to find a permanent remedy, water right of the Council due to expire Dec 1983). Present Bill to facilitate Synthetic Fuels Corporation's use of the Waitara outfall. Mentions other two recommendations in Motunui Report and outlines how Government is dealing with them. In response to third recommendation (establishment of a regional planning and co-ordinating mechanism to propose medium term plans for development), Government formed a task force, consisting of representatives from various Government departments (including the Department of Maori Affairs). The fourth recommendation (establishment of an interdepartmental committee to review regulatory and planning legislation) was referred to the Minister of Maori Affairs. Says that the Bill represents the basis of the agreement reached between the Prime Minister and the four Maori members of Parliament.

**Palmer (Dep Leader of Opposition)** says that the Bill represents a very large U-turn in Government policy, but that the Government should be given credit for changing its mind. Outlines events from the release of the Motunui Report to the present, including the Prime Minister's announcing that the report's recommendations would be ignored, protests by Te Atiawa, and meetings between the iwi and the Prime Minister.

**Muldoon (Prime Minister)** denies that he had announced that the recommendations were to be ignored, stating that he had said that several of the recommendations would be dealt with later and that in respect of the outfall at Motunui, the Government had no option but to go ahead because the loan agreements. Says at the time, the Government did not contemplate taking the serious step of introducing special legislation as they were now doing. Neither he nor his cabinet believed that special legislation was a viable option, but that it became so when he was able to secure the approval of Te Atiawa through the four Maori members.

**B Couch (Min of Maori Affairs)** in response to criticism that the Government would not automatically agree with the recommendations of the Tribunal states –

That is not what Government's are elected for – to hand over their responsibility to any outside body, however knowledgeable and efficient. If the people of New Zealand wanted to be governed by committees they should not have elected a Parliament. Parliament is elected partly so that recommendations such as this may be thoroughly considered, debated, and discussed in a public forum before binding decisions are made.

**Dr Cullen** says that he, on behalf of opposition, released a press statement on the day that the Government declined to implement the recommendations of the Tribunal, stating that since no water right to discharge into a combined outfall had been applied for, there could be no objection to special legislation to grant that water right being introduced the next week to be passed that year.

**K Wetere** expresses support for the Bill, stating that it has brought back democracy and common sense, and has restored dignity to Parliament.

Several members refer to the fast tracking procedures used the year before by the same Government in relation to the Clyde Dam.

**9 Sept, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 452, pp2308-2328, 2390**

**Synthetic Fuels Plant (Water Right) Empowering Bill** (Report of Commerce and Energy Committee on Bill)

Name of Bill changed to Synthetic Fuels Plant Effluent Disposal Empowering Bill.

*K Wetere* asks what will be done about the other two recommendations of the Tribunal.

*Minogue* says that the Bill is historic in that it represents the first effective use of the Treaty of Waitangi Act 1975.

*Tirikatene-Sullivan* pays tribute to Te Atiawa, Matiu Rata, and Chief Judge Durie.

*R Richardson* quotes a portion of the Tribunal's report referring to the Treaty as "the foundation for a developing social contract". Deals with environmental issues, stating that although the report is a document of cultural and spiritual excellence, she does not believe it is a document of environmental excellence.

*P Tapsell* says this is the first time that the Tribunal has been able to make its contribution known. States –

[The Tribunal] has grave disadvantages, but it has been successful in this case despite those disadvantages, which should be remedied. The Tribunal has too few members, no power to look beyond 1975, and no legal or research staff. On those grounds it is unsatisfactory, and should be modified.

Also says that this gives a needed reassurance that reasonable argument through ordinary channels will achieve something.

**13 Oct, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 453, pp3100-3121**

**Synthetic Fuels Plant (Water Right) Empowering Bill** (Second Reading)

*W Birch (Min of Energy)* mentions second two recommendations of the Tribunal, stating that funding of \$820,000 has been provided by the Government to examine all the effluent treatment and disposal options for the region.

*Dr Gregory* says that for Maori people, this Bill is part of an ongoing exercise that began 143 years before. But states that the recommendations of the Tribunal have been implemented in part, but not as fully as they should be.

*McLean* amongst other Treaty rhetoric, states that this Bill is "a demonstration that the Treaty of Waitangi is a living document, breathing spirit into legislation".

*Tirikatene-Sullivan* says she advised Te Atiawa on their 12 April submission to Parliament. Notes that Aila Taylor said that the whole case was "demolished" by the Prime Minister in one sentence, who said it was impossible to comply with the request because of the credit agreement on the loan monies obtained by the Government to fund the synthetic fuels plant. Says that the statement was not correct, and that it caused Te Atiawa further travail, deliberations and expenditure.

*Dr Cullen* notes that the \$2 billion synthetic fuels plant required the Government to borrow money from 40 banks. Also notes that the Bill as introduced provided that the existing water right at Motunui would be retained, and that this was not made clear by the Government at the First Reading of the Bill [the Bill now provided for the abandonment of the water right at Motunui].

**18 Nov, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 454, pp4003-4005**

**Synthetic Fuels Plant (Effluent Disposal) Empowering Bill** (Third Reading)



*Kidd* says that this Bill should be seen as “one of the highlights on a path to understanding what the Treaty of Waitangi means in the present day”.

## 1984

### *September*

*National hui held on Treaty at Turangawaewae. Hui recommended to Government that Waitangi Tribunal be given retrospective powers to investigate grievances back to 1840, and that adequate resources be afforded to the Tribunal to ensure grievances were fully researched.*

**28 Sept, 41<sup>st</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 457, p652**

### **Answers to Oral Questions – Treaty of Waitangi Hui Recommendations**

*Tirikatene-Sullivan* asks Minister of Maori Affairs (Koro Wetere) what action he proposes to take on recommendations arising from hui held at Turangawaewae recently. Asks whether a widely reported recommendation that Waitangi celebrations cease forthwith was an accurate representation of the hui’s consensus.

*K Wetere (Min of Maori Affairs)* says recommendations are being examined (some of which were very good), and there would be an announcement by the end of the year. Answered the second question NO.

**18 Dec, 41<sup>st</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 460, p2702-2713**

### **Treaty of Waitangi Amendment Bill** (Introduction and First Reading)

*K Wetere (Min of Maori Affairs)* details changes proposed by Bill. Says “it cannot be predicted how dramatically the number of claims will increase as a result, although it is reasonable to expect that there will be a steep increase followed by a leveling off and then a gradual decline”.

*W Peters* says that few Bills introduced to the House this year are as important as this one. Talks about magnitude of the Bill – affects private, public and individual lives. Refers to Government promise to introduce a Bill of Rights incorporating the Treaty. Refers to composition of the Tribunal, over-representation of Maori. Six out of seven are the “minister’s men”. Says the Bill places Torrens system of land ownership under attack. Massive ramifications in portent of clauses.

*D Graham* refers to many settlements already made. Faced with a grievance, Tribunal can either write a large cheque on the taxpayer, or refuse to act, either way a potential time bomb. Fears social and economic consequences of Bill.

*P Tapsell* notes that Tribunal doesn’t determine compensation level, if claim is well-founded Government then considers settlement.

*Tirikatene-Sullivan* notes the fact that Tribunal has heard 4 out of 14 claims in 9 years. Applauds change to larger Tribunal and provisions for research assistance.

*McLean* talks a lot about reopening old wounds.

*P East* says Government will be bound by recommendations of the Tribunal in the real and political world.

*K Wetere (Min of Maori Affairs)* refers to National Government turning tail on Motunui report. Then moves that the Bill be referred to the Maori Affairs Committee and that the proceedings of the committee during the hearing of evidence be opened to the media.  
*Motion agreed to.*

## 1985

**17 July, 41<sup>st</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 464, p5647-5650**

**Treaty of Waitangi Amendment Bill** (Report of Maori Affairs Committee on Bill)

*Dr Gregory* tables report of Maori Affairs committee on Bill. Refers to two day national Maori hui held on 4 and 5 February. Notes that a strong case was put to the committee that the Tribunal should be given investigative powers similar to those of the ombudsman, but the committee decided that the Tribunal already has those powers under s4C of the Commissions of Inquiry Act 1908. Also states that committee considered other submissions which recommended altering Tribunal's jurisdiction to include the power to make binding decisions, to consider draft legislation, and to investigate the actions of local authorities. However, the committee felt that this would radically change the nature of the Tribunal and that such a change was undesirable.

*W Peters* refers to fact that only 24 submissions made to committee. Very few for such an important Bill. Says Bill is greatly underpublicised.

**17 July, 41<sup>st</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 464, p5647-5650**

**Treaty of Waitangi Amendment Bill** (Second Reading)

*K Wetere (Min of Maori Affairs)* says fears have been expressed that there will be an avalanche of claims. Doesn't have that fear, sees no evidence to indicate that will be the case.

*W Peters* says this is easily the most important Bill to come before the House in the last decade, if not two decades [interesting how it has graduated to such from being one of the most important of the year, as Peters classified it at the First Reading]. Bill will affect every New Zealander, privately and publicly, every corporation, every taxpayer. Refers again to composition of Tribunal and over-representation of Maori. Warns against possibility of allegations of bias and prejudice in Tribunal's findings as a result of composition. Refers to idea of one law for all New Zealanders. Re proposed Bill of Rights, asks how this Bill fits in with that proposal. Says the real question is will the Government settle the claims and how much will it cost.

*D Graham* mentions idea that claimant might not be "prejudicially affected" (as required by Act) by the taking of ancestors' land (or this could be very hard to prove). Thinks Bill will exacerbate the problem by raising Maori hopes and then dashing them.

*P Tapsell* says this is one of the most important Bills passed in our time, Tribunal will be one of the more important judicial bodies in New Zealand, points out a change in New Zealand's whole direction. Says Government will not dispossess landowners to settle claims, but will compensate with Crown land or by buying other land.

*W Austin* says modern Tribunal may have trouble dealing with historical claims. Says lawyers will be the ones to benefit most out of the Bill.

*McLean* says not possible to go back 150 years and seek utu. Fault lies on both sides with both European and Maori ancestors. Consequence of Bill will be racial backlash previously unseen in New Zealand.

**3 Dec, 41st Parliament, 1st Session, Hansard Vol 468, p8626-8531**

**Treaty of Waitangi Amendment Bill** (Third Reading)

Repetition of opposition to Bill. *W Austin* mentions conscription of Maori to fight in war as a possible Treaty grievance. *Peters* talks about a lack of public understanding of the Bill.

*P Tapsell (Min of Internal Affairs)* reiterates that the Tribunal has recommendatory powers only. Says that the matter of binding powers was considered at the committee stage but that the Government "chose to avoid it". Also reiterates the point that privately-owned land is not at risk.

## 1986

**11 Dec, 41<sup>st</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 476, pp6116-6138**

**State-Owned Enterprises Bill** (Second Reading)

*G Palmer (Dep Prime Minister/Minister of Justice)* (at 6118) states that Government has reassured Maori people through the Federation of Maori Authorities that it will not take any steps that will prejudice Maori under the Treaty. Government committed to the Waitangi Tribunal process and will not allow it to be subverted – the Bill allows Government to give effect to that commitment. Government prepared to write into the Bill a specific preservation of the Crown's responsibility under the Treaty of Waitangi together with detailed provisions to ensure that land that is subject to a claim before the Waitangi Tribunal does not pass into private ownership and is capable of resumption by Crown.

**11 Dec, 41<sup>st</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 476, pp6192-6201**

**State-Owned Enterprises Bill** (Third Reading)

[NOTE – same day as Second Reading].

*G Palmer (Dep Prime Minister/Minister of Justice)* Committee considered a Supplementary Order Paper on how Maori rights affected by Bill. Notes addition by committee of clause which became s9. Also notes clause 22A which specifically deals with Maori land claims. Says that Bill has been the subject of much consultation with Maori and the subject of recommendation by the Waitangi Tribunal, and that the Bill would not prejudice Maori in any way. When a claim had been lodged with the Tribunal concerning certain land, that land could not be transferred by the Crown until the claim was dealt with. Future claims (ie after land already transferred) would still go before the Tribunal following which the Government would decide upon the compensation or remedy to be given.

*McLean* suggests that all Maori lodge claims before royal assent given to the Bill. Otherwise they could find themselves unable to retrieve land.

*Upton* notes that there has only been 5 months for claimants to lodge retrospective claims, with the Tribunal only having had retrospective powers for that long. Notes that if a claim is not lodged, the SOE is not on notice and can dispose freely of land. Says Maori see Government as a more responsible defender of their rights. SOE may dispose freely of land causing Maori to lose their rights (to which *Palmer* replies that the Treaty of Waitangi Act

does not confer any rights to Maori over land, so they cannot be said to lose any rights by the transfer of land).

[NOTE that the second and third readings of the SOE Bill were both on 11 December in the same sitting of Parliament. The SOE Act partially came into force 19 Dec, one week after its third reading].

**19 Dec**

*SOE Act came into force.*

## 1987

**19 Mar, 41<sup>st</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 479, p8306**

### **Written Question 1 – Waitangi Tribunal**

**Morrison** asks what the terms of appointment and remuneration are for each of the members of the Tribunal, and if there is any reason that this information should be regarded as confidential.

**Caygill (Acting Min of Justice)** replies that members of the Tribunal are appointed for a term not exceeding 3 years and receive \$124 per day, and that he knows of no reason for regarding this information as confidential.

**29 June**

*Court of Appeal issued NZMC v A-G SOE decision, finding Crown to be in breach of s9 SOE Act. Court directed Crown (in conjunction with NZMC) to formulate an SOE scheme compliant with Treaty obligations.*

**7 Oct, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 483, pp483-485**

### **Address in Reply**

**Dr Gregory** refers to "shadow of the land" proverb and its inverse. Says that the Waitangi Tribunal is going a long way to settling Maori grievances but that urgent and expanded resources as promised by the Government are necessary.

Our greatest deficiency---and when I say ``our" I am referring particularly to the Maori people---relates again to a point I raised earlier, the shadow and the land. It has been a bone of contention with Maori people for many generations, and if members care to examine the records both inside the House and outside the House they will find that the constant grievance that is brought forward by the Maori people relates particularly to land, amongst many other matters. The Waitangi Tribunal has had an extremely important role to play in relation to that, and urgent and expanded resources for the Waitangi Tribunal, as promised by the Government, are necessary.

**November**

*Waitangi Tribunal issued Orakei Report (Wai 9). Tribunal found that the Crown had breached the Treaty of Waitangi when it purchased the Orakei block and that the block should have been kept as a reserve in tribal ownership. The Crown had also failed to protect the rights and property of the hapū, in breach of its Treaty obligations. The Tribunal recommended that Okahu Park and the headlands of Bastion Point be returned to Ngāti Whātua to be used as public parks and that the Orakei marae and the Okahu church and urupā be returned to Ngāti Whātua.*

**20 Oct, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 484, p892**  
**Written Question 6 – East Coast Bays Sewerage Scheme**

JOHN CARTER (Bay of Islands) to the Minister of Health: Has he received any reports of delays in approval for the construction of an East Coast Bay sewerage scheme at Mangonui, and the effect such delays are producing; if so, what effect are the delays having?

ANSWER :

Hon. DAVID CAYGILL (Minister of Health) replied: Yes, I have received reports of delays in approval for the construction of the East Coast sewerage scheme at Mangonui. The delays are due to the lengthy deliberations of the Waitangi Tribunal over objections to the siting of the oxidation ponds. However, I am aware that subsidy totalling \$1,205,200 has been approved by my department, of which all but \$380,000 has been claimed.

**20 Oct, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 484, p903**  
**Written Question 46 – Lake Taupo Marina**

Mr McCLAY (Waikaremoana) to the Minister of Conservation: Does the Department of Conservation intend to give its consent or otherwise to the proposed Nukuhau marina on Lake Taupo while the marina is still under consideration by the Waitangi Tribunal?

ANSWER :

Hon. HELEN CLARK (Minister of Conservation) replied: That is a matter for my consent, not that of the Department of Conservation. A report has been prepared for me by my department on all aspects of the marina proposal.

**20 Oct, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 484, p903**  
**Written Question 48 – Lake Taupo**

Mr McCLAY (Waikaremoana) to the Minister of Conservation: Does her department have a policy on what the legal status of Lake Taupo should be; if so, what?

ANSWER :

Hon. HELEN CLARK (Minister of Conservation) replied: Section 14 of the Maori Land Amendment and Maori Claims Adjustment Act 1926, vested the bed of Lake Taupo in the Crown. That legislation and several other Acts are presently the subject of a claim to the Waitangi Tribunal. It would be inappropriate for my department to form a policy before the Waitangi Tribunal makes its recommendations.

**24 Nov, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 485, p1563**  
**Written Question 43 – Mangonui Sewerage Scheme**

JOHN CARTER (Bay of Islands) to the Minister of Justice: In view of a reply I have received from the Minister of Health concerning the matter of the east coast sewerage scheme at Mangonui, can he advise whether there is any opportunity to obtain a quick decision from the Waitangi Tribunal concerning that matter?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal is an independent statutory authority and it is not possible, and indeed it would be most improper, for me to attempt to influence it or to interfere with its deliberations. I believe that the Tribunal has not as yet completed its inquiry, but that it is aware of the urgency involved and will be bringing down its report at the earliest possible date.

**8 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 485, pp1715-1734**  
**Treaty of Waitangi (State Enterprises) Bill** (Introduction and First Reading)

See *Transcripts of Debates*, p3

**Palmer (Min of Justice)** refers to s9, says the Government's decision to include s9 was not taken lightly nor without some awareness that it could carry some consequences.

The Government's decision to incorporate that section in the State-Owned Enterprises Act was not taken lightly, nor was it taken without some awareness that it could have some significant consequences. Our resolve concerning section 9 has not weakened despite the testing time we have endured on that issue.

Refers to s27 and Court of Appeal decision delivered on 29 June. Court directed Crown to prepare a scheme of safeguards protecting existing or foreseeable claims against lands and waters intended to be transferred to SOEs. Refers to negotiations with New Zealand Maori Council (directed by Court). Bill gives effect to agreement reached with NZMC. [NOTE that the agreement reached with the NZMC and forming the substance of the Bill, was taken back to the Court of Appeal on the day of the first reading to demonstrate compliance with the Court Order, which compliance the Court of Appeal recognised]. Details particulars of Bill. Crown could reacquire land transferred to SOE and subsequently onsold to private party. If Tribunal recommends return of specific land to Maori ownership, Crown required by law to reacquire and give effect to Tribunal's recommendation. Bill also contains provisions to allow claimants to seek legal aid.

**J Bolger** notes that Government fought SOE case in Court all the way to Court of Appeal. Talks about devaluation of land which could possibly be subject to a Treaty claim. Caveat on land sales will make it difficult for SOEs to operate. Ownership of land will be finally determined by Waitangi Tribunal without any appeal to another court. Refers to Tribunal members as political appointees. This new development is a radical departure from the operation of laws. Private land owners will not have the right to argue their case before the Tribunal.

**Prebble (Min of SOEs)** refers to Treaty saying it confers on Maori both rights and obligations, specifically an obligation to recognise the sovereignty of the Crown, including sovereignty to carry out economic policy. Both possible under the Bill. On ownership of Crown lands -

One of the central questions that was put to the Government was that it appears that the Government does not own all of the land that it wants to transfer. On behalf of the Government I said---and I should like to think that it is an opinion shared by all members---that the Crown does not want to exercise ownership over land that it does not own, and that it wants that land to be returned to the right owners. A process has to be gone through to determine the ownership, but the principle is quite clear: the Crown does not believe that it has any moral right to occupy, or exercise ownership over, land that it does not own. It does not matter when the Crown took over the rights of ownership of the land; the question is, does it own the land or not? If it does not, it should be returned to the rightful owners. One either believes in the rule of law in relation to ownership of land or one does not. The Government believes in the rule of law and it does not want to exercise the rights of ownership over land that it does not own.

Replying to *Bolger*, says that Tribunal has been in existence for over a decade, and is subject to judicial review [though as several opposition speakers argued, this did not allow for an appeal on the merits].

*W Peters* refers to composition of Tribunal and possibility of racial bias, especially now that Tribunal given the power of Law Lords. Says Tribunal must be improved in number and calibre (at least to that of High Court Judges).

*McLean* says land will be virtually worthless, can't be onsold, developed etc.

*Dr Gregory* on the Waitangi Tribunal –

I believe the mana of that institution has stood the test of time. As I understand it, its mana has not been abused by either side of the House.

*Graham* refers to rule of law, saying it is fragile and depends on esteem and respect of people. Law must be seen to be fair and just. Three fundamental principles – (1) impartiality; (2) alternative points of view to be heard; and (3) allow for avenue of appeal. Says Bill derogates from all these principles. Says Government is abdicating its role of being final arbiter of Maori grievances.

*Tapsell* says at time of formation of SOE Bill, Koro Wetere fought doggedly to ensure adequate protection for Maori who would subsequently bring a claim to the Tribunal.

During the formation of that Bill, my colleague the Minister of Maori Affairs expressed concern that proper provision be made to ensure that Maori interests were protected---indeed, it would not be an exaggeration to say he fought doggedly to ensure that there was adequate protection for the Maori people who would subsequently bring a claim to the tribunal, and whose claim would be sustained, and held by the tribunal to be such as to require the return of the land. The outcome of that concern was to incorporate into the Act a provision that, in brief, states that the Crown, in exercising that Act, may not act in a way that is inconsistent with the Treaty of Waitangi. That was a unique decision, and was the effect of section 9 of the State-Owned Enterprises Act.

*D Kidd* notes that Tribunal is entitled to take evidence in secret and unsworn. No appeal on the merits.

*W Kyd* says Bill is rushed and full of holes (eg what happens to fixtures on land such as forests or dams, where fixtures may often be worth much more than the land itself). Refers to Tribunal backlog and says this will hold up SOEs.

*Palmer (Min of Justice)* says (in reply to questions about whether Bill could be amended given agreement with NZMC and compliance with Court Order) –

The Bill is unique, as there has never been such a Bill in the history of Parliament. It is extraordinary. The member for Marlborough asked whether the select committee would be able to make changes to the Bill. The select committee would be able to do so, but those changes will have to be more seriously and deeply considered than changes in a normal Bill, because, as the extraordinary recitals show, the Bill, unlike any other Bill in my memory, has been introduced to settle a case in the Court of Appeal. It is the result of an agreement. The case is unusual, and that fact needs to be taken into account. No doubt all Bills are capable of improvement, and no doubt the select committee will be able to make a contribution to that.

Re third party (private land owner) rights –

The issue before the tribunal is whether one of the treaty partners---namely, the Crown---has lived up to its obligations under the treaty in relation to the land. That is not an issue in which third parties have a direct interest. Obviously, when they take the land, subject to notice, they know that that possibility may exist, because it is endorsed on the title. However, the matter of whether the Crown met its obligations is one of great importance, and the hearing of it will not be improved by the intervention of third parties, which will not be arguing about those obligations but about their personal interests---a different point altogether.

**10 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2317**  
**Written Question 4 – East Coast Sewerage Scheme**

JOHN CARTER (Bay of Islands) to the Minister of Justice: In view of his reply of 2 December 1987, concerning the matter of the Tribunal's decision relating to the East Coast sewerage scheme, can he please be more specific concerning the matter of the ``earliest possible dates'' in relation to the report to be brought down by the Waitangi Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: There is nothing that can be added to my earlier reply. The Tribunal is still considering the matter and no finite indication can be given as to when it will present its report.



## 1988

**17 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2355**  
**Written Question 41 – Maori-owned Land---Taranaki**

Hon. V. S. YOUNG (Waitotara) to the Minister of Justice: How many applications for a review of matters pertaining to the confiscation of Maori owned land in Taranaki in the 19th Century have been received by the Waitangi Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal has received two claims which refer to the confiscation of land in Taranaki in the 19th century. One is from the Taranaki Maori Trust Board and the other from M. R. R. Love and R. H. N. Love on their own behalf and on behalf of the beneficiaries of the Taranaki Maori Trust Board.

**23 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2563**  
**Written Question 74 – Taranaki Tribal Lands**

Hon. V. S. YOUNG (Waitotara) to the Minister of Justice: In view of the report that "up to a dozen compensation claims could be lodged with the Waitangi Tribunal over the confiscation of Taranaki Tribal lands", can he confirm that should anyone of the dozen claims be not adjudicated on by the Tribunal, it is the Government's policy that the disposal of any State Owned Enterprise land remain subject to a subsequent decision of the Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Government's policy on the question is contained in the Treaty of Waitangi (State Owned Enterprises) Bill which is at present before a special Select Committee. A final recommendation of the Waitangi Tribunal that land owned or previously owned by a state owned enterprise should be returned to Maori ownership will be implemented. There are, however, two exceptions to that rule. First, it will not extend to land which at the date of the transfer to a state owned enterprise was subject to a deferred payment licence or to a lease giving the lessee the right to acquire the freehold. Secondly, it will not apply in cases where the Tribunal has previously recommended that land be no longer subject to resumption. Certificates of titles to state owned enterprise land subject to resumption will be marked with notations to warn possible purchasers and other interested parties.

**25 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2589**  
**Written Question 32 – Sewerage Outlet---Taipa**

JOHN CARTER (Bay of Islands) to the Minister of Justice: Can he advise whether he has heard when the decision on the Taipa Sewerage Outlet will be given?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal is currently considering the fisheries claim. When it has completed that matter, it will give priority to dealing with the Taipa sewerage outlet.

**25 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2589**  
**Written Question 33 – Waitangi Tribunal**

JOHN CARTER (Bay of Islands) to the Minister of Justice:  
Does he intend to provide more resources to the Waitangi Tribunal in an endeavour to assist and speed up their decision making process?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: I understand my colleague, the Minister of Maori Affairs, is considering changing the structure of the Waitangi Tribunal to enable the Tribunal to sit more frequently. Should this change be made I will be providing the necessary resources to support the new structure.

**25 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2589**  
**Written Question 34 – Waitangi Tribunal**

JOHN CARTER (Bay of Islands) to the Minister of Justice: Can he advise if there is any intention to appoint permanent members to the Waitangi Tribunal, and, if so, how many?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: I understand my colleague, the Minister of Maori Affairs, is considering appointing two permanent members to the Waitangi Tribunal.

**25 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2589**  
**Written Question 35 – Waitangi Tribunal**

JOHN CARTER (Bay of Islands) to the Minister of Justice: Can he confirm that there are only two people employed to provide the administration services for the Waitangi Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied; There are three people fully employed in providing administrative services for the Waitangi Tribunal. The Tribunal also has services by up to seven other people in the Tribunals Division of the Department of Justice who service other Tribunals also.

**25 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2589**  
**Written Question 36 – Waitangi Tribunal**

JOHN CARTER (Bay of Islands) to the Minister of Justice: Can he advise the average length of time taken for a decision to be given by the Waitangi Tribunal following the conclusion of hearings of the Waitangi Tribunal over the last four years?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal makes detailed reports to the Minister of Maori Affairs on the claims it hears. Over the last four years the average length of time taken for a report to be given by the Tribunal following the conclusion of hearing is 53 weeks.

**25 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2590**  
**Written Question 37 – Waitangi Tribunal**

JOHN CARTER (Bay of Islands) to the Minister of Justice: Can he advise how many claims are currently before the Waitangi Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: There are 145 claims currently before the Waitangi Tribunal.

**25 Feb, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 486, p2593**  
**Written Question 53 – Ministerial Correspondence**

WINSTON PETERS (Tauranga) to the Minister of Maori Affairs: Has he seen two letters written by the Prime Minister dated 31st October 1986 and 24th November 1986 to a Mr Warren Sutton of Dunn Road, Ararimu, R.D. 3 Drury, both of which refer to the Prime Minister's expectation that his Minister of Maori Affairs would make reply to Mr Sutton, and if so, did he in fact as Minister of Maori Affairs make a reply; if so when?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: My department's records give no indication that the two letters you refer to were ever received for formulating replies to. However, I can advise that I was referred two letters from Mr Sutton for drafting replies, one in December 1986 which was replied to by the Prime Minister on 2 February 1987 and the other around November 1987 which was replied to by the Prime Minister on 14 December 1987. Both related to the Ngati Whatua claim to the Waitangi Tribunal on Bastion Point with Mr Sutton in the first letter expressing his recollections of some events he felt relevant to the case, and in the second letter expression his disagreement with the Tribunal's findings.

**3 Mar, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 487, p3072**  
**Written Question 45 – Land Ownership Disputes**

Hon. V. S. YOUNG (Waitotara) to the Minister of Justice:

Will he give an assurance that the Government will continue to guarantee the indefeasibility of the title of any private land that is subject to a claim of disputed ownership under the provisions of the Waitangi Tribunal Act?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The guarantee of title given to registered proprietors by the Land Transfer Act will not be affected by an decisions of the Waitangi Tribunal. No registered proprietor with the benefit of such a guarantee will be deprived of his or her land by the Waitangi Tribunal. Confusion regarding this matter may have arisen because the Waitangi Tribunal (State Owned Enterprises) Bill will create new rules in relation to land owned by SOEs. Land held by SOEs will be subject to resumption unless the Waitangi Tribunal otherwise orders. SOEs will thus only acquire a defeasible title and only be able to pass on such a title. The limitation in title will be clearly shown on the register to avoid any prejudice to persons wishing to acquire interests in SOE land.

**15 Mar, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 487, p3095**  
**Written Question 64 – Maori Land Legislation**

WINSTON PETERS (Tauranga) to the Minister of Justice: Can he confirm the reported comments of the member for Hamilton East, that the Government is planning a compromise on Maori land legislation to restore a right of appeal against some Waitangi Tribunal decisions; if so, which Tribunal decisions would be covered by such appeal rights?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Treaty of Waitangi (State Owned Enterprises) Bill is currently before a Select Committee which will make recommendations to **Parliament** once it has finished hearing submissions on the bill. It would be inappropriate for me to comment on the bill while it is before the Select Committee.

**15 Mar, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 487, p3096**  
**Written Question 69 – Hui Taumata Whakawaa Resolutions**

WINSTON PETERS (Tauranga) to the Minister of Maori Affairs: Can he confirm that individual resolutions were presented to him by representatives of the Hui Taumata Whakawaa at a meeting on 3 March 1988; if so, what resolutions and what has been his response to those resolutions?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: Yes, a delegation of 22 people called upon me to present the proceedings of the Hui Taumata Whakawaa. A copy of 30 resolutions from that Hui follows. These resolutions cover five broad categories. Over half have financial and/or policy implications. These are already under consideration in the forward planning that my officials are currently doing. Several others cover staffing matters and other Departments where I have little or no role, but where appropriate I will make

representations. Eight others involve the Maori Authorities themselves. I believe that the Authorities already have sufficient powers to enable them to undertake any of these recommendations proposed. I was very pleased by the messages of support for my office from these delegates, and I told them so.

Recommendations:

[Recommendations not referring to the Waitangi Tribunal omitted]

27. That the Waitangi Tribunal be granted the mana and status of the High Court and that Judge Durie be appointed Permanent Head of the Tribunal.

**22 Mar, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 487, p3354**  
**Written Question 15 – Registered Lease, Crown Land**

Hon. V. S. YOUNG (Waitotara) to the Minister of Justice:  
Will he give the assurance that the terms of any registered lease of Crown Land will not be altered without the concurrence of a lessee as a result of any recommendation of the Waitangi Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: Deferred payment licences and leases, under which the lessee has the right to acquire the freehold, are excluded from presumption of land on recommendation of the Waitangi Tribunal under clause 27 (b) of the Treaty of Waitangi (State Enterprises) Bill. Other leases of Crown land which confer rights of pastorage but no right of the soil are nevertheless contracts between the Crown and the lessee and the terms of the individual contract made under the Land Act 1948 would apply.

**19 Apr, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 488, p3802**  
**Written Question 155 – Waitangi Tribunal---Operating Cost**

JOHN BANKS (Whangarei) to the Minister of Justice: What is the operating cost of running the Waitangi Tribunal administration and support staff?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The operating cost of running the Waitangi Tribunal for the year ended 31 March 1988 totalled \$979,301. This included:

	\$
Members' fees and travel expenses .. .. .	297,540
Staff salaries and wages .. .. .	173,777
Staff travel expenses .. .. .	53,133
Office and general costs .. .. .	188,779
Research and legal services .. .. .	266,072

Excluded from these expenses etc., are the judicial salaries of the chairmen.

**20 Apr, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 488, p3818**  
**Written Question 5 – Maori Land Claim**

JOHN CARTER (Bay of Islands) to the Minister of Justice: In view of the statements he made in the New Zealand Herald on Wednesday 2 March 1988, concerning the matter of privately owned land not being able to be inquired into by the Waitangi Tribunal, why is it that he has not intervened on behalf of the Mangonui County Council in relation to the East Coast Community Sewerage Scheme which is being delayed because this privately owned land is subject to a claim before the Waitangi Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The statements attributed to me in the New Zealand Herald of 2 March 1988 are correct. First, attempts to regain land by force or threats of force are illegal. Secondly, registered proprietors under the Land Transfer Act 1952 cannot be deprived of their titles by the Waitangi Tribunal. As is now generally known, there will be a minor exception to the second proposition once the Treaty of Waitangi (State Enterprises) Bill is enacted. This will affect persons who buy land from state owned enterprises notwithstanding warnings which will be endorsed on the relevant title. It is only in the case of land owned or formerly owned by state owned enterprises that the Tribunal's decisions are binding. In all other cases the Tribunal merely makes recommendations for consideration by the Crown. No claim before the Tribunal (including the one referred to in the question) will deprive registered proprietors of their land.

**28 Apr, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 488, p4050**  
**Written Question 51 – State Highway 1---Kaitaia North**

JOHN CARTER (Bay of Islands) to the Minister of Maori Affairs: Can he advise that he is taking action to ensure that State Highway 1 north of Kaitaia is not closed as a result of a "Kaitiaki" claim currently before the Waitangi Tribunal lodged by the Runanga O Muriwhenua?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: State Highway 1, in Northland, begins some five miles north of Kaitaia at Awanui. Extensive inquiries by my departmental officials have revealed that the Runanga O Muriwhenua has no plans to seek closure of the State Highway 1 at all. In addition, the Runanga has no plans to seek closure of the legal public road which runs from Awanui to Te Kao and Te Hapua. The Runanga O Muriwhenua has a claim before the Waitangi Tribunal which affects lands to the north of Waitiki and the road thereover which runs to Cape Reinga. This is not a legal road as yet although much of the documentation to legalise it has been completed, and I understand legislation is being delayed due to the aforementioned claim to the Waitangi Tribunal. It is this road that I presume is the subject of this question. I am not aware of any plans by the Runanga O Muriwhenua to seek closure of this road either, although I understand they are not prepared to exclude it from their claim; and because its legislation can therefore not be completed, the local body is reluctant to spend any money on its upkeep. I

therefore will not be intervening in this disagreement, although I am keeping abreast of its progress.

**3 May, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol488, p4067**  
**Written Question 22 – Post Office Sales**

Mr R. F. H. MAXWELL (Taranaki) to the Minister for State Owned Enterprises: Is it his policy that when selling any of the surplus Post Offices the Crown will accept liability for any claim that is made against those properties as a result of Treaty of Waitangi (State) Bill provisions subsequent to the passage of the bill and any property sale?

ANSWER :

Hon. RICHARD PREBBLE (Minister for State Owned Enterprises) replied: The Treaty of Waitangi (State Enterprises) Bill allows the Crown to transfer land including Post Office properties to State-owned enterprises subject to an endorsement on the title indicating that the land may be subject to a Maori land claim. Under the provisions of the Bill, the Crown may resume ownership of Crown land transferred to a State-owned enterprise following a recommendation by the Waitangi Tribunal that the land is required to settle a claim. Clause 1 of the Bill deems the Act to have come into force on 9 December 1987.

**5 May, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 488, pp3970-3982**  
**Treaty of Waitangi (State Enterprises) Bill** (Report of Committee on Bill)

See *Transcripts of Debates*, p24

*Dr Gregory* Reports major submissions heard by Committee – (1) rights of private parties before Tribunal; (2) rights of appeal from Tribunal; (3) possibility of imposing a time limit for the lodging of claims; (4) adequacy of compensation for land resumed by Crown for settlement of claim [NOTE compensation system governed by Public Works Act, which many argue undercompensates]; and (5) clarification of interests in land affected by Bill. Reiterates that Bill is not about removing rights of private land owners –

It is important to make known to the owners of privately owned land that the Bill does not have the intent of seeing them lose their land. I mention that particular comment because it was expressed loudly and clearly by Opposition members when the Bill was before the committee.

*W Peters* says Parliament is being asked to rubber stamp an agreement made outside of the House, and that this is unconstitutional.

*Tirikatene-Sullivan* on s9 –

I am particularly pleased to speak on the Bill, because I was one of the two Ministers involved in the original Treaty of Waitangi Bill. The section 9 that was eventually put into the State-Owned Enterprises Act 1986 carried the identical words used when we worked out the original Bill, and I was pleased to see that that section was included. I believe that it is not unreasonable for me to accept with some authority that I might have initiated much of the discussion in

Maoridom that resulted in section 9. Were it not for section 9 being put into the original State-Owned Enterprises Act 1986 by the Government, the New Zealand Maori Council would not have had a successful case. Victory hung on that clause, with which I have been very familiar for many years, and I included it in a private member's Bill of my own. Nothing in the legislation permits the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi. The words in the clause go back to what was called a Ratana/Labour alliance, so I have a particular and specific awareness of it. The Government provided that clause so that the claim of the New Zealand Maori Council could succeed.

**B Dillon** refers to unusual nature of the agreement, in that it came into force that day the Bill was introduced.

**5 May, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 488, pp4017-4028**  
**Treaty of Waitangi Amendment Bill** (Introduction and First Reading)

See *Transcripts of Debates*, p38

**Tapsell (Min. of Police on behalf of Min. of Maori Affairs)** says the Bill has arisen from agreement with NZMC that Tribunal be given increase in membership and that other measures be taken to help with workload and increase in workload that will follow passing of TW SE Bill. Bill increases membership from 7 to 17. No longer a minimum number of Maori members. New criteria - all appointments must be made with regards to partnership between two races, in order to "preserve a reasonable racial balance amongst members". Tribunal will be able to sit in divisions of 3 to 7 members and hear claims concurrently. Tribunal may defer hearing of claim to hear with another claim that relates to the same matter. Tribunal may state a case to the Maori Land Court or Maori Appellate Court (ie to resolve Maori v Maori disputes such as tribal boundaries).

**W Peters** canvasses the unconstitutionality of extra-parliamentary agreement argument again.

**Palmer (Dep Prime Minister/Min of Justice)** on the new measures in the Bill -

The procedures contained in the Bill are a considerable improvement on the procedures enjoyed by the tribunal in the past. They are an improvement mainly because all of the measures contained in the Bill are the result of suggestions made to the Government by the tribunal. The tribunal enjoys mana amongst the Maori people. It also enjoys a high reputation for doing its job properly, getting the parties together, finding out the nature of the claims, and writing extremely persuasive reasons in support of its adjudications. In a very short time the tribunal has established itself as an important part of the New Zealand constitutional framework, dealing with treaty issues that go back to the very foundation of New Zealand's constitution in 1840 when the treaty was entered into. By 1990 the Bill will demonstrate that New Zealand has a means of providing justice for Maori people in New Zealand, and by those means racial disharmony will be avoided.

**J Bolger** on the timetable of settlement of grievances -

I want some indication from the Minister about how long he expects---now that the Government has made the judgment to increase the size of the



tribunal---that the claims before it will be heard. Does the Government expect that the tribunal will be able to hear all of the claims in 5 years?

The Minister of Justice said that by 1990, which is only 2 years away, remarkable progress will have been made in resolving the outstanding issues that date back to 1840. That seemed to me to be blind optimism. In determining 16 additional members one has to presume the decision was made on the same basis, estimate, or judgment of how long the tribunal will take to resolve the outstanding claims. It would be helpful to everyone if we could have some indication from the Minister on that matter.

*W Kyd* suggests that High Court Judges be added to the Tribunal, to improve quality of process and speed.

Speed is essential. The claims should not be allowed to continue to the year 2000. That is too long a time, and will create further divisions. Something must be done to resolve the claims much more urgently than can be done under the present procedures. The Government---indeed, both parties---should come up with procedures that will hurry matters up; if that does not happen, the results will be bad for the future of the country.

*Tirikatene-Sullivan* refers to provisions of Bill guaranteeing non-discrimination on grounds of sex in hearings of Tribunal.

**7 Jun, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 489, p4510**  
**Written Question – East Coast Community Sewerage Scheme**

JOHN CARTER (Bay of Islands) to the Minister of Justice: In view of his reply of 28 April 1988 can he now answer my question, that is, why has he not intervened on behalf of the Mangonui County Council in relation to the East Coast Community Sewerage Scheme which has been delayed because privately owned land is subject to a claim before the Waitangi Tribunal?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: It is not possible, and intended it would be improper, for me to endeavour to influence or interfere with an independent statutory authority such as the Waitangi Tribunal in the procedures it adopts or the priorities it accords to any claim submitted. I understand, however, that the Tribunal is now in a position to give some priority to its consideration of the matters arising from the claim referred to.

**7 Jun, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 489, p4517**  
**Written Question 90 – Ngai Tahu Claim---Expense Account**

Hon. V. S. YOUNG (Waitotara) to the Minister of Justice: Can he give details of the major costs, including legal and departmental assistance to appellants, travelling, accommodation and grants, gratuities or koha for the use of marae and other facilities that have been charged to his department to cover expenses related to the sitting of the Waitangi Tribunal on the Ngatahu Claim currently being considered by the Tribunal?

ANSWER :



sovereign. The Queen is sovereign in New Zealand, and, even though the Maori people have the right to alienate the land, the Queen is sovereign for better or for worse. Even if things were done that were wrong, that does not necessarily mean that they should be reversed. The Queen has the power to do things that may in the course of history appear wrong later, but those things should not necessarily be overturned. The Government, rather than the Waitangi Tribunal, should be dealing with those Crown claims. The tribunal should make recommendations, and the Crown should make the decision. The Bill is a face-saving exercise. It prevents the Government from having to make the decision by passing that responsibility to a tribunal, and thereby it saves the Government from possible public odium. The Government has created the problem, and it is right that the Government should solve it. It should not pass it to some tribunal that represents probably a minority of the people.

Speaks critically of Tribunal, citing broad terms of reference, slowness, lack of cut-off date, nothing to stop claimants bringing the same claim again.

**D Graham** states -

However, 10 years or 13 years after the Treaty of Waitangi Act has been in force, I should have thought that any person of Maori descent who thought that he or she had a claim against land in New Zealand would have known about it by now. The claims should not be allowed to go on ad infinitum. I am surprised that Parliament has not had the courage to pass a law that places a statute of limitations period on the matter, and I fail to understand why that cannot be done. It is possible that the Committee will review that matter.

**28 June, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 489, pp4773-4777**  
**Treaty of Waitangi (State Enterprises) Bill** (Third Reading)

See *Transcripts of Debates*, p84

**R Prebble (Min. of SOEs)** says Bill is of "unprecedented historical significance". Says Bill allows Crown to carry out Government policy while at the same time totally protecting Maori land claims under the Treaty.

**Tirikatene-Sullivan** refers to genesis of s9 type provisions –

I do not know whether the House fully recognises the historical significance of the epoch-making history of the Bill, recognising as it does that anything in legislation permitting the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi has to ensure parallel safeguards to protect the position of Maori claimants. I do not know whether the House fully recognises that point. The first time those words were referred to was in 1932, in a petition of T. W. Ratana, who sought statutory recognition of the treaty, and protection for Maori claimants over any Act that would be brought into force. That petition sought that nothing in any legislation would permit the Crown to act in a manner that was inconsistent with the principles of the treaty. That petition was brought into the House by my predecessor and was approved by the largest number of Maori signatories.

*P Tapsell* on private land owners –

The Bill relates to a specific area of Crown land; the Treaty of Waitangi Act 1975 relates to all New Zealand land, including privately owned land. Government members are saddened that some members---I suspect out of ignorance---have spread confusion and concern. No person in New Zealand--no individual Maori or European---who at present holds title to land is under any threat whatever, either from the Bill or from the Treaty of Waitangi Act 1975. Not one individual who at present owns a legal title that is registered in the Land Transfer Office is under any threat whatsoever.

**12 Jul, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 490, p5357**  
**Written Question 66 – Rotorua Wastewater Treatment Plant**

Mr McLEAN (Tarawera) to the Minister of Finance: Will he provide the Rotorua District Council with a \$21 million subsidy towards the Rotorua waste-water treatment plant upgrading scheme, and will he advise the Council whether it is Government's intention that the scheme should not be implemented until a further decision is made by Government?

ANSWER :

Hon. R. O. DOUGLAS (Minister of Finance) replied: In June 1987 Cabinet agreed to a Government grant for the upgrading of the Rotorua sewerage treatment scheme to reduce nutrient inflow to Lake Rotorua and to satisfy current Maori concerns and the recommendations of the Waitangi Tribunal with respect to the Kaituna Claim. It agreed that a grant of \$21 million should be applied to the least cost works meeting these requirements and that it would consider the application of such a grant to a particular proposal when cost estimates could be confirmed. A proposal from the Rotorua District Council has been received by the Minister of Works and Development and will be put before Cabinet for a decision in a few weeks.

**13 Jul, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 490, p5080**  
**Private Land Protection Bill** (Introduction)

PRIVATE LAND PROTECTION BILL  
Introduction

Mr McLEAN (Tarawera): I move, That leave be given to introduce the Private Land Protection Bill. The Bill is timely, because it deals with one of the major issues facing New Zealand society today---race relations. It is designed to give security, to calm fears, and to reduce tension. The purpose of the Bill is to remove some of the fears, doubts, and tensions and to build a basis with confidence to enhance race relations. That is its purpose. I hope to continue my speech in 2 weeks' time.

Debate interrupted.

**19 Jul, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 490, p5679**  
**Written Question 6 – Fishing Management Advisory Committees**

Hon. G. F. GAIR (North Shore) to the Minister of Fisheries:  
Has he sought any advice from the Fishing Management Advisory Committees regarding current fishing management plans and any problems which may have arisen since the Muriwhenua Report; if so, what advice has he sought and what advice has he received from this source?

ANSWER :

Hon. COLIN MOYLE (Minister of Fisheries) replied: The role of the Fisheries Management Advisory Committees is set out in section 7 of the Fisheries Act 1983. The Committees are established ``for the purposes of preparing proposed plans and giving advice in relation to operative plan".

Advice has been sought from FISHMAC members in developing the proposed plans and proposed plans have been drafted.

Of the five plans developed one was released for public inspections (in 1987); the other plans have been developed more recently.

The recommendations of the Waitangi Tribunal on the Muriwhenua Claim and the current deliberation on Maori fishing rights obviously will have a significant impact on the plans.

Once the Government has considered the Maori fishing rights issue and how they should be administered, the plans will be redrafted.

At the redrafting stage the advice of FISHMAC members will be sought. The plans will subsequently be released for full public comment.

Although FISHMAC members advice on the redrafting of the plans is not being sought at this stage, FISHMAC members are being kept informed of the Maori fishing rights issue. The Waitangi Tribunal's recommendation on the Muriwhenua Claim and the deliberations of the Maori fishing rights working party has been discussed at the latest round of FISHMAC meetings. As well, Auckland FISHMAC members have received more than 40 pages of information on the Maori fishing rights issue through FISHMAC newsletters provided by MAFFISH.

**19 Jul, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 490, p5680**  
**Written Question 7 – Maori Land Claim Compensation**

Hon. G. F. GAIR (North Shore) to the Minister for State Owned Enterprises: Can he confirm that the Crown will compensate the purchaser in all cases where a property, which had formerly been Crown land, is bought from a State-owned Enterprises by a private individual or company, and the sale is subsequently voided following a Maori land claim and determination by the Waitangi Tribunal; if so, is that compensation intended to be on the basis of: (a) purchase price; (b) current market price, or; (c) otherwise; if so, what, and is it intended to cover improvements; if so, on what basis?

ANSWER :

Hon. RICHARD PREBBLE (Minister for State Owned Enterprises) replied: In the circumstances outlined, full compensation as provided for in Parts V and VI of the Public Works Act will be available to the affected landowner. The compensation will embrace land and improvements as well as business loss and will reflect market values

at the time of acquisition.

**20 Jul, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 490, p5697**  
**Written Question 23 – Hydro-electric Dam Sites---Maori Claims**

WARREN KYD (Clevedon) to the Minister of Justice: Have any claims been made to the Waitangi Tribunal over land containing hydro-electric dam sites belonging to Electricity Corporation of New Zealand Limited, by Maori, Maori tribes and sub-tribes pursuant to the Treaty of Waitangi Act; if so, for which dam sites?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal has no record of any claim specifically in respect of a hydro-electric dam site belonging to Electricorp. Claims submitted to the Waitangi Tribunal relating to land give only a general description of the areas involved and many do not specify any detail of the land in question. It is not until claims are fully researched and during the course of formal inquiries that detail of claims becomes apparent.

The Waitangi Tribunal has received the following claims relating to land which it is believed from the record encompass areas in which there could be hydro-electric dam sites.

Red	Claimant	Land to which claim relates	Dame sites possibly in area
WAI-27	Henare Rakihia Tau Ngai, Tahu Trust Board	Affects land owned south of line drawn between Cape Foulwind in the west and White Bluff just north Cape Campbell in the east	Aviemore Benmore Clyde Hawea Lake Manapouri Monwai Ohau Pukaki Roxburgh Te Anau Te Kapo Waitaki
WAI-29	R. T. Mahuta on behalf of himself and members of Waikato-Tainui and Wainui Maori Trust Board and Nga Marae Toopy	Waikato River Water Rights Waikato Harbours---Tainui Lands	Arapuni Atiamuri Karapiro Maretai Ohakuri Waipapa Whakamaru
WAI-30	R. T. Mahuta, on behalf of himself and members of Tainui and Maori Trust	Waikato River Tainui lands confiscated under New Zealand Settlements Act 1863, Mangare Block, Pukaki Blocks, Ihumatau Blcok, Kerikeri, Pukekiwiriki Block	Arapuni Ataimuri Karapiro Maretai Ohakuri Waipapa Whakamaru

Lands taken by proclamation 16 May  
1965 in New Zealand Gazette, 15  
September 1865, p. 170

PC-49 S. M. Mead on Crown Lands from Ohiwa Harbour to Matahina  
behalf of Ngati Waitahanui River  
Awa Trust Board

PC-141 J. G. Swensen Palmerston North re, Dannevirke Mangahao No. 1  
Tamaki Nui A Rua County, Woodville County, Pahiatua Mangahao No. 2  
Taiwhenua County---Palmerston North

**20 Jul, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 490, p5705**  
**Written Question 43 – Wellington Railway Station Airspace**

Hon. V. S. YOUNG (Waitotara) to the Minister of State Owned Enterprises: Does he intend any proposal by the Railways Corporation to sell airspace over the Wellington Railway Station to be subject to inquiry and recommendation under the terms of the Waitangi Tribunal Act?

ANSWER :

Hon. RICHARD PREBBLE (Minister for State Owned Enterprises) replied: I am advised by the General Manager of Railways that there is no current proposal to sell airspace over the Wellington Station.

**21 Jul, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 490, p5709**  
**Written Question – Main Road to Cape Reinga**

Hon. G. F. GAIR (North Shore) to the Minister of Transport: Has he seen the report in the New Zealand Herald of 20 July describing the neglected and dangerous state of the main far north road to Cape Reinga; has he been advised that the reason for the reluctance to repair and adequately maintain this 20-kilometre section of metal road arises because of an unresolved Maori claim before the Waitangi Tribunal; and what action, if any, has been taken, or will be taken, by the National Roads Board to address this situation?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Transport) replied: The National Roads Board has been advised by the Mangonui County Council that it has discontinued maintenance of the section of the Far North Road that lies within the Te Paki Farm Park administered by the Department of Conservation. The Board was advised that the reason for this was the refusal by the Department of Conservation to pay rates or a grant towards the cost of road maintenance. The road is at present effectively a private road and the argument is between the County and the landowner.

The Board has offered to take the road over as a Special Purpose Road but this depends on the road being legalised. Legalisation is held up awaiting resolution of the Maori claim before the Waitangi Tribunal.

*McLean (Member who introduced this Private Member's Bill)* states –

The Bill is very simple. It gives absolute protection to private land against claims made through, and decisions made by, the Waitangi Tribunal. It protects, equally well, Maori land and pakeha land, leasehold land and freehold land. I pay tribute to my colleague the member for Waitotara, who first had the concept for the Bill, and who will be speaking in the debate. I expect the Bill to be supported by the Government. Major issues between Maori and pakeha today are those of race relations and land. Much of the pakeha flight to Australia arises because of fear about issues such as land.

[...]

As well as that flight to Australia there are much more malignant missions, such as the mission to Libya by Maori activists. Among pakeha people one of the major fears relates to the loss of land. The Bill seeks to provide an absolute assurance that people will not lose their land as a result of Waitangi Tribunal decisions. At the same time, Maori people seek a similar assurance under the treaty that their land rights are protected. At present the law is not absolutely clear. The Waitangi Tribunal effectively operates under three Acts. Two of those Acts are badly constructed and one is Draconian. The Draconian Act is the Public Works Act, the vehicle that is used for compensation.

Refers to Treaty of Waitangi (State Enterprises) Act and State-Owned Enterprises Act saying that the legislation was rushed through and contained loopholes. Says the Government cannot give an assurance that private land is safe from claims to the Tribunal. Says the current Bill provides absolute assurance that private land would not be touched by decisions of the Tribunal. Refers to race relations and says the removal of the fear that private land is at risk will enable a fair and final settlement.

*Prebble (Min of State-Owned Enterprises)* says the Bill is "irresponsible, reckless, racist rubbish". Says the race relations issue is being exploited, and compares it to an atom bomb. Says the Bill is based on misinformation and is totally unnecessary. Quotes Judge McHugh on the issue –

The Deputy Chief Judge of the Maori Land Court, Judge McHugh, stated:  
``There is a widespread but erroneous view in the minds of the public that private owners of farm and other lands are at risk of losing their land as a result of Maori claims under the Treaty of Waitangi Act. Disputes which come before the tribunal are between the Maori people and the Crown. There is no provision in the Treaty of Waitangi Act, or elsewhere in the general law, which would enable the Crown to require owners of privately held land to pass that land over to Maori claimants whose ancestors might once have owned it." That legal opinion is an authoritative statement on the law.

Reiterates that the Treaty of Waitangi (State Enterprises) Act only deals with Crown land, and that any private person that chooses to buy Crown land subject to a claim does so with full notice and full compensation. Also refers to National party policy (or lack of policy) on race relations and Treaty issues.



***V S Young*** states that Judge McHugh has stated publicly that private land is not excluded from the recommendations of the Tribunal. Refers to Frontline program where Sir Tipene O'Regan spoke about Ngai Tahu claim -

One of the strongest advocates of a case before the Waitangi Tribunal, Stephen O'Regan, appeared on the ``Frontline" programme on television, and said that if necessary the Ngai Tahu claim would extend to include private land. What is the Bill about? It is about keeping private land out of the jurisdiction of the tribunal. It is about protecting the title to our own land. It refers to the land of not only non-Maori New Zealanders but also the many Maori New Zealanders who want to have the title to their own section or their own piece of farm land protected. That is what the Bill does. In the ``Frontline" programme the presenter asked Mr O'Regan: ``Are you ever going to seek private property?" Mr O'Regan said: ``We have not." The presenter asked: ``Will you ever?" Mr O'Regan answered: ``If my people at some point find that negotiations with the Crown and over the Crown resource cannot be settled, we will have to then go back to the underlying issues that history is underlying those---private interests." The presenter asked: ``Does that mean yes, you may seek private property?" Mr O'Regan said: ``If we are forced to." It is absolute nonsense for the Minister for State-owned Enterprises or any other Government member to say that the matters put before the Waitangi Tribunal, and on which the Waitangi Tribunal can make a recommendation, concern only the land of the Crown.

Refers to certain types of Crown pastoral leases which may be at risk. Also refers to 1944 Ngai Tahu settlement which purported to be full and final.

***Philip Woollaston (Minister Assisting the Deputy Prime Minister)*** says the Bill is "disinformation" designed to stir up fear, and that the same technique was used by totalitarian regimes like USSR and Nazi Germany. Says there is no provision in the law to put any Crown leases at risk.

***W Kyd*** refers to the short title of the Bill – "An Act to ensure that the principle of indefeasibility of title to land is fully maintained and protected". Says private persons are entitled to reassurance. Says that there are claims before the Tribunal for virtually the whole of New Zealand, and that certain claims include private land. Refers to concerns surrounding the Tribunal -

People are concerned about the method of appointment to the tribunal. They are also concerned at the terms of reference of the Waitangi Tribunal, which has to decide if an Act is inconsistent with the Treaty of Waitangi, when it can then return the land. They consider that the terms of reference are too narrow and do not take account of 150 years of history that cannot be redressed.

People would prefer more balanced terms of reference. They are worried about the absence of a right of appeal. Another two tribunals will soon be operating, and it may be that those tribunals will not hold the high status or have the high abilities of the present tribunal. If that happened a maverick decision could be made, against which there would be no redress. People would like a right of appeal that has an element of British justice. That would also provide a protection for Maori people, who could have a maverick decision made against them. People are concerned about the absence of a right of hearing before the tribunal, and about the tribunal's power to hear whatever evidence it chooses. They are concerned at the absence of a

right of cross-examination. If a claim is made the claimant cannot be tested by cross-examination, which is one of the great rights in hearings in our courts.

There is concern at the history of that legislation. The tribunal was originally operating effectively. Mr Paul Temm, QC, was removed from that tribunal. People are worried about the possibility of removals and replacements on the tribunal, and about the tribunal being influenced to give effect to public policy.

*Dr Gregory* says the Bill is a nullity in that what it proposes to protect is already protected in law. Referring to comments made by Sir Tipene O'Regan on the Frontline program, says that this was said with the understanding that any dealings with private land would be subject to the ordinary rules of contract.

*Motion that Bill be introduced negatived.*

**16 Aug, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 492, p6632**  
**Written Question 9 – Railway Houses**

Mr R. F. H. MAXWELL (Taranaki) to the Minister of Railways:  
Will he give an assurance that the houses sold by the Corporation will not have caveats placed on the title by the Corporation as a result of claims made before the Waitangi Tribunal?

ANSWER :

Hon. RICHARD PREBBLE (Minister of Railways) replied: I am advised by the General Manager of Railways that the Corporation will not be placing a caveat on the title of any house sold by it unless the Corporation has a remaining interest that must be protected.

**6 Sept, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 492, p6709**  
**Written Question 5 – Railways Corporation Houses**

Mr R. F. H. MAXWELL (Taranaki) to the Minister of Railways:  
Are any house properties owned by the Railways Corporation known to have an interest that will be protected on sale resulting from Treaty of Waitangi Tribunal claims; if so, how many properties?

ANSWER :

Hon. RICHARD W. PREBBLE (Minister of Railways) replied: I am advised by the General Manager of Railways that there are no house properties owned by the Corporation known to have an interest that will be protected on sale resulting from Treaty of Waitangi Tribunal claims.

**15 Sept, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 492, pp6611-6622**  
**Treaty of Waitangi Amendment Bill** (Report of Maori Affairs Committee on Bill)

See *Transcripts of Debates*, p115

*Dr Gregory* details submissions received on Bill –

Of the 27 submissions, 7 were opposed to the Bill's provisions and 20 favoured its introduction, although some of them had reservations. The main issues raised in the submissions concerned the size and composition of the tribunal, consistency in decision-making, tribal procedure, and the rights of the Maori Appellate Court. There was general support for clause 2, which increases the number of judges sitting on the tribunal. There was also support for the creation of divisions. That approval stems from the widespread concern about the delay in the work of the tribunal, leading to frustration among some Maori groups and uncertainty in the wider community.

Some submissions also recommended an increase in research and administration resources to aid the tribunal in its work. Concerns were expressed about the maintenance of consistency in tribunal decisions, particularly when it sits in divisions in different parts of the country. While recognising the need for consistency the committee felt that it should not be a problem, given the considerable expertise of members of the tribunal and the method by which members of the divisions are selected. Most submissions either supported or were silent on the removal under clause 2 of the requirement that a certain proportion of the tribunal membership must be of the Maori race. Some submissions advocated that a Maori majority should be maintained on the tribunal.

The submissions from the fishing industry also stressed the need for appointees to the tribunal to come from a wider background---for example, people from the business sector who have hands-on experience. All tribunal members should not necessarily have a historical or legal background. The New Zealand Fishing Association Inc. raised the matter of fairness in tribunal hearings. The association noted the absence of the right for persons appearing before the tribunal to question or cross-examine witnesses on crucial points. The suitability of marae as a venue was also questioned. The committee sought advice from the department on that matter, and in response it was told that the Waitangi Tribunal operates as a commission of inquiry and that the inquisitorial approach is more appropriate in that function.

The committee also felt that there is a widespread misunderstanding of cultural differences, and that that misunderstanding gives voice to misconceptions about marae protocol. Some submissions, particularly those from Maori organisations, recommended that the tribunal should have greater autonomy and the same status as a High Court. However, most submissions, including those made on behalf of the fishing industry, agreed that the tribunal is held in high regard and that its integrity is beyond reproach. Any concerns for the future on that basis would be ill-founded.

In relation to the powers of the Maori Appellate Court or the Maori Land Court the Law Society recommended changes to clause 4 to state clearly the rights of ownership that are to be adjudicated on by the Maori Appellate Court relating to disputes between Maori. That is the only amendment that the committee recommends. However, the committee did not agree about it, and I note that Opposition members reserved their position on all clauses.

***W Kidd*** recites common criticisms of Tribunal – no right of appeal, slow, no right of cross-examination. Says Tribunal has caused trouble in New Zealand and exacerbated race relations problems.

*J Bolger* says it is unacceptable to apply Muriwhenua report findings on fisheries to the entirety of New Zealand.

**4 Oct, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 493, p7357**  
**Written Question 171 – Matiu Rata---Grants**

JOHN CARTER (Bay of Islands) to the Minister of Employment:  
Further to his answer to question No. 24 of 14 September 1988, can he please advise whether the five grants of \$10,000 each to Matiu Rata or Rata, M. are in fact, government funding for Matiu Rata to lodge claims relating to fishing resources with the Waitangi Tribunal?

ANSWER :

Hon. PHIL GOFF (Minister of Employment) replied: The five grants approved in the name of Matiu Rata under the Community Employment Investigation Scheme were given to help investigate fishing potential in tribal regions. the grants were not approved to fund claims with the Waitangi Tribunal.

**15 Nov, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 494, pp7927-7933**  
**Treaty of Waitangi Amendment Bill** (Second Reading)

See *Transcripts of Debates*, p122

*W Kidd* refers to growing race relations problems. States that Tribunal's terms of reference are dangerously wide. Says there is no limit to the number of claims that may be brought, and no finality to the litigation. Says decisions of Tribunal not implemented unless convenient for Government. On partnership –

The tribunal has spoken of a partnership between the parties, but which partnership between which parties? The original partnership was between the British Crown and Maori chiefs. Neither of those parties exists now, yet the word "partnership" is still used. Does that mean that everything is to be shared fifty-fifty? That expression is vague, meaningless, pious, and likely to confuse and lead to bad decisions, because it will add an extra wheel to the bicycle.

Also refers to issue of gender equality on the marae, stating that customs on individual marae should govern who is able to speak.

*Dr Gregory* on the gender equality issue –

The member referred to the tikanga, or kawa, o te marae in relation to women speaking on that institution. Generally speaking, women do have a right to speak within the confines of a marae. The matter in which one would need to pay particular attention to the so-called tikanga or kawa would be the mihi, the ritual that precedes such discussions. It is in relation to that matter that some marae are stringent about the roles that male and female play. I recognise no difficulty with the Bill in that respect. It makes specific reference to the issue of sex and the right to speak, subject to the understanding of what is known as the kawa of a marae. I bring that matter to the attention of the member and of the House because it is a matter that is subject to great misunderstanding, and one that is

fraught with unjust attitudes to the procedure of the Waitangi Tribunal.

Estimates that newly constituted Tribunal would be able to deal with all claims within 15 years.

**9 Nov, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 494, p8154**  
**Written Question 59 –Waitangi Tribunal Claims**

JOHN CARTER (Bay of Islands) to the Minister of Justice:  
Can he please advise the value of the claims before the Waitangi Tribunal?

ANSWER :

Hon. DAVID CAYGILL (for the Minister of Justice) replied: No, I cannot.

Claims lodged with the Waitangi Tribunal cover a number of issues including land claims, fisheries claims, claims involving mana (eg language) and spiritual claims. In most cases claims do not include any reference to value.

In respect of land claims now before the Tribunal most claimants have lodged applications on the basis of a general claim which is subsequently refined to include boundaries, areas, etc. Few claimants can specify in advance the precise acreage of Crown land claimed.

The Waitangi Tribunal has not placed a value on the few specific land claims which can be clearly identified in terms of acreages and it is not the Tribunal's role to do so. When the Tribunal hears a claim it is expected that questions such as the value of land may be raised in evidence.

It should be noted that the compensation remedies proposed by the Waitangi Tribunal may not bear any relationship to the current value of land subject to claim. An example of this could be the recent Orakei recommendations in which the Tribunal recommended compensation of \$3 million as part settlement of a claim for land which would be valued at many times that figure. Furthermore, different Crown lands might be sought or awarded in compensation, rather than those on which the right to compensation was established.

Hence it is difficult to realistically describe the "value" of a claim even after the matter is settled (eg Orakei), and it is considered impossible to give any realistic estimate in monetary terms of claims on which evidence has yet to be heard. Any attempt by the Waitangi Tribunal to do so would prejudice a case yet to be heard.

**22 Nov, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 494, pp8217-8224**  
**Treaty of Waitangi Amendment Bill** (Second Reading cont.)

See *Transcripts of Debates*, p129

*W Peters* says that 3<sup>rd</sup> Article guarantees Maori rights of British subjects, including (in the context of a court of law) the right to be heard, the right to cross-examine, and the right to appeal. Says Tribunal derogates from these rights.

*Tirikatene-Sullivan* in referring to Treaty of Waitangi Act, states that there is some validity in taking the retrospectivity further back to 1833. In view of increase in Tribunal membership, refers to a need for more legally trained Maori, and possibility of training and

recruitment scheme. Also refers to need for research support, both for Tribunal and claimant tribes.

**6 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 494, pp8525-8536**  
**Treaty of Waitangi Amendment Bill** (Second Reading cont.)

See *Transcripts of Debates*, p138

*V S Young* says Tribunal's retrospective powers must go.

*R Muldoon* says nothing has done more to harm race relations in New Zealand in the last century than the 1985 amendment to the Treaty of Waitangi Act. Also says Act should be taken back to 1975 position, "New Zealand cannot live with the regurgitation of ancient grievances". Says a National Government will amend the Act accordingly.

**8 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 495, p9076**  
**Written Question 17 – Legal Aid - Waitangi Tribunal**

Mr R. J. S. MUNRO (Invercargill) to the Minister of Justice: How many applications for legal aid have been made each year for claims before the Waitangi Tribunal between 1975 and 1984; and what was the cost each year?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal is not aware of any applications or payments for legal aid in the period 1975-1984.

**8 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 495, p9078**  
**Written Question 27 – Legal Aid - Waitangi Tribunal**

Mr R. J. S. MUNRO (Invercargill) to the Minister of Justice: How many applications from any Maori or groups of Maori have been lodged under the Legal Aid Act 1969 since 9 December 1987; how many have been granted pursuant to the transitional provisions of the Treaty of Waitangi (State Enterprise) Act 1988; what is the cost to date?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal is aware of an application by the Ngai Tahu tribe lodged since 9 December 1987. The matter is presently before the Legal Aid Committee.

**9 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 495, p9104**  
**Written Question 36 - Waitangi Tribunal**

Dr GREGORY (Northern Maori) to the Minister for the Environment: In the light of the report by the **Parliamentary** Commissioner for the Environment, which looks at Crown responses to Waitangi Tribunal recommendations between 1983 and 1988, does he intend to establish an independent body to monitor the Government's performance on Treaty issues?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister for the Environment) replied:  
The Environment Act 1986 establishes the **Parliamentary** Commissioner for the Environment as an independent authority to monitor the Government's performance on environmental issues taking into account any land, water, sites, fishing grounds or physical or cultural resources, or interests associated with such areas which are part of the heritage of the tangata whenua and which contribute to their well-being. Her report on environmental management and the principles of the Treaty of Waitangi shows how well the **Parliamentary** Commissioner is able to carry out these functions, and no other body is needed.

**13 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 495, pp8861-8872**  
**Treaty of Waitangi Amendment Bill** (Third Reading)

See *Transcripts of Debates*, p151

*P Tapsell (Min of Police, on behalf of Min of Maori Affairs)* restates role, function and powers of Tribunal in response to Opposition members (particularly Peters) who he said misrepresented the Tribunal to create racial tension for political advantage.

*W Kyd* on private land, says although Government has given assurances that private land was not at risk, Government rejected Private Member's Bill of member for Tarawera (Ian McLean) to protect private land. On problems with Tribunal –

The Bill purports to amend the Treaty of Waitangi Act. The chief defect of the Act is the vague terms of reference. The tribunal does not have boundary restrictions. It has no definitive jurisdiction. It can decide whatever it wants to, and it can listen to what it wants to, because the Act states that where a Maori claims he has been prejudicially affected by any act inconsistent with the Treaty of Waitangi he may bring a claim. The tribunal can hear what it wants to and there is nobody in this land who can overturn a decision once it has been made by the tribunal, because all it is doing is listening to a claim when a Maori says he has been prejudicially affected. The words are too vague. The jurisdiction of the tribunal is virtually unlimited.

*Dr Gregory* outlines definition of term "take" used in Bill.

## 1989

**21 Feb, Hansard Question Supplement Vol 1, p25**  
**Written Question 10 - Waitangi Tribunal Recommendations**

WINSTON PETERS (Tauranga) to the Minister of Maori Affairs:  
For each recommendation made by the Waitangi Tribunal what has been the government response to date; and the estimated cost of each recommendation?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: Since 1983,

there have been eight reports issued by the Waitangi Tribunal containing recommendations which have required responses by the Government. The Government's response to each recommendation is summarised in "Environmental Management and the Principles of The Treaty of Waitangi" published by the **Parliamentary** Commission for the Environment. Some of these recommendations have been completely resolved, some partially resolved, some are no longer applicable because of changes of circumstances and others have yet to be addressed.

Individually, the eight reported claims are:

- (a) The Motunui claim; five recommendations, two resolved and three addressed but tangible results not yet evident.
- (b) The "Kaituna River" claim; four recommendations, one fully implemented, two partially implemented, and of the fourth which is in three parts, two parts have been fully implemented and one part is being addressed but no tangible results are yet evident.
- (c) The "Manukau Harbour" claim; fifteen numbered recommendations and two unnumbered recommendations, four fully completed, and thirteen partially completed. Of those partially completed, four have more than one part. In one recommendation with two parts, one part is completed. One recommendation is in four parts, two of which are partially done, one of which is dependent on the others being completed and one of which will be rejected by the responsible Ministers. Resolution of three of the recommendations will be incorporated in the Resource Management Law Reform programme currently under way.
- (d) The "Te Reo" claim; five recommendations, two rejected by Ministers, one fully implemented, two partially implemented.
- (e) The "Waiheke" claim; three recommendations, one fully implemented, one---in terms of its wording---no longer applicable and one in the final stages of its implementation.
- (f) The "Orakei" claim; eight numbered recommendations and one unnumbered recommendation which has been rejected, one fully implemented, five and a half which will be actioned when legislation currently being drafted is enacted, half of a two part recommendation fully implemented and one addressed but tangible results not yet evident.
- (g) The "Muriwhenua" claim; four recommendations, two partially implemented and two rejected by the responsible Ministers. It should be noted that hearings covering the full spectrum of this claim are yet to be completed and that the Tribunal could issue more recommendations.
- (h) The "Taipa" claim; the Tribunal declined to make recommendations in this report.

As to the question of the estimated cost of each recommendation, a record of this has not been kept.

**21 Feb, Hansard Question Supplement Vol 1, p64**  
**Written Question 140 - Race Relations**

Hon. G. F. GAIR (North Shore) to the Deputy Prime Minister:  
In identifying progress with race relations as among the critical factors to the Government's hopes for re-election, would he amplify this feature of his "state of the nation" address to the Labour Party women's meeting in Nelson



by advising what he meant when he said ``much concern (about race relations) was the result of misinformed speculation and paranoia", and can he provide examples?

ANSWER :

Rt Hon. GEOFFREY PALMER (Deputy Prime Minister) replied: The comment about misinformed speculation and paranoia was made in relation to Maori issues specifically and not race relations generally. It was based on conversations with a lot of people.

Some of the comments on Maori issues are based on wrong information and a reluctance to accept the facts.

One obvious example is the fear that surrounds the role of the Waitangi Tribunal. There are many who believe that the Tribunal has far reaching powers over privately owned land and that the Government is bound to implement its decisions. This is incorrect. Only in the transfer from the Crown to State owned enterprises does the Waitangi Tribunal have any power greater than the right to make recommendations.

Another example concerns the Maori Language Act. There are statements made that English will no longer be accepted as an official language in New Zealand. It is nonsense to suggest that English is now banned in many instances and that Maori language is compulsory. The Maori Language Act recognises Maori as an official language not the official language and sets up the Maori Language Commission to promote Maori language, allowing it to be used in legal proceedings. The rest of the Act is concerned with certifying translators. Hardly an Act that threatens the foundations of our society.

Discussions of Maori issues are often influenced by an attitude that acknowledgment of Maori needs and input occur at the expense of other groups. There has to be an acceptance that Maori people are in a disadvantaged position as a group and are in need of assistance. Education, Health and Justice statistics bear testament to that statement.

**21 Feb, Hansard Question Supplement Vol 1, p120**  
**Written Question 362 - State Forests**

Hon. G. F. GAIR (North Shore) to the Minister of Maori Affairs: Are he and his department parties to a Government proposal, presented to the recent hui on the future of state-owned forests at Rotorua, calling for the retention of state ownership of the land, and a deferral of the transfer of the forests from the State to the Forestry Corporation until 50 to 70-year leases are sold to the private sector; if not, have they taken any action to help protect Maori interests in this matter under the provisions of the Treaty of Waitangi?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: My department and I are party to the Government's proposals on the future of state-owned forests.

In order to protect Maori interests however, negotiations are

continuing as to procedures to be followed regarding resumption of land, possible compensation and other Maori concerns should there be successful claims to the Waitangi Tribunal in respect of any of the Crown's land involved in this policy. Already it has been agreed that Wahi tapu areas will be identified and surveyed, and will not be included in any sale of forestry rights.

**8 Mar, Hansard Question Supplement Vol 1, p295**

**Written Question 25 – Share-swap deal - Electricorp/Comalco**

Hon. G. F. GAIR (North Shore) to the Minister for State Owned Enterprises: Are the Government's or Electricorp's present or prospective interests in the Manapouri power station the subject of Maori land claims, and, if not, can he give an assurance to Electricorp and Comalco that any proposed share-swaps will not be subject to the resolution of future Maori land or resource claims?

ANSWER :

Hon. STAN RODGER (Minister for State Owned Enterprises) replied: The Waitangi Tribunal is presently hearing the Ngai Tahu claim which covers the greater part of the South Island including the Muriwhenua area in which the Manapouri Power Station is situated. Any comment or prediction as to the outcome of the Tribunal's hearing would be inappropriate at this stage.

**14 Mar, Hansard Question Supplement Vol 1, p323**

**Written Question 2 - Maori Land Claims, Aranga**

WARREN KYD (Clevedon) to the Minister of Lands: Has he been advised of any action taken over the years by the Ngati Whatua in connection to a claim for a reservation over the land of a Mr Titford at Aranga, including recent claims to the Maori Land court and a claim to the Waitangi Tribunal; if so, what action has he been advised of?

ANSWER :

Hon. PETER TAPSELL (Minister of Lands) replied: I have been advised that over a number of years Ngati Whatua has disputed ownership to two areas of land, one of which forms part of Mr Titford's farm. In 1937 the claim was subject to a **Parliamentary** Petition which was referred to the Maori Land Court for inquiry and report. The report was published in 1942 as **Parliamentary** Paper G6A. The Judge concluded that the two areas should be returned to the Petitioners but the Chief Judge could not recommend this course of action. The Government of the day accepted the Chief Judge's recommendation. In recent years the Maoris have made representations to Government pressing for the return of the land and have lodged a claim with the Waitangi Tribunal. More recently Mr Titford has approached Government which is negotiating with him in an endeavour to resolve the matter.

**15 Mar, Hansard Question Supplement Vol 1, p354**

**Written Question 55 - Waitangi Tribunal Claims---Coalcorp**

Hon. WARREN COOPER (Otago) to the Minister for State Owned

Enterprises: What provisions, if any, has he made for claims affecting Coalcorp that are before the Waitangi Tribunal?

ANSWER :

Hon. STAN RODGER (Minister for State Owned Enterprises) replied: The Government does not retain a stock of assets as provision for settlement of claims which may or may not be upheld by the Waitangi Tribunal. However land transferred from the Crown to Coal Corporation is subject to the land re-acquisition provisions of the Treaty of Waitangi (State Enterprises) Act 1988.

**15 Mar, Hansard Question Supplement Vol 1, p455**  
**Written Question 61 - Defence Properties---Maori Land**

Hon. G. F. GAIR (North Shore) to the Minister of Defence: Has he received advice indicating whether any of the defence properties listed at page 151 of the Quigley Report, or parts thereof, are Maori land or are subject to land right claims now before the Waitangi Tribunal, or are expected to be the subject of future claims; if so, which properties are so affected?

ANSWER :

Rt. Hon. R. J. TIZARD (Minister of Defence) replied: There is a specific claim, under the Waitangi Tribunal, over Defence land at Devonport, Kauri Point, and Whangaparaoa. In addition to this specific claim, there are other claims over large areas of New Zealand within which there is Defence real estate which could become subject to claim. Any Defence real estate which is to be disposed of will be put forward for disposal and fully examined in terms of Part III of the Public Works Act 1981. If, in the course of this disposal process, it became apparent that a property were subject to a claim, it would be withheld from sale, as a matter of course, pending resolution of the claim.

**16 Mar, Hansard Question Supplement Vol 1, 381**  
**Written Question 100 - Waitangi Tribunal---Cost**

JOHN LUXTON (Matamata) to the Minister of Justice: What has been the annual total cost of the Waitangi Tribunal since 1980?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: The Waitangi Tribunal was established by the Treaty of Waitangi Act 1975. Initially this Tribunal was one of a number of Tribunals serviced by the Tribunals Division in the Department of Justice. The records of costs of servicing the individual Tribunals in these early years have not been able to be located. In the year ending 31 March 1985 the costs are estimated to have been about \$32,027, in earlier years it would have been less than this.

In 1985-86 the costs were \$39,571, in 1986-87, \$138,107; in 1987-88, \$836,689; and in 1988-89 the estimated provision is

\$2,313,000.

**16 Mar, Hansard Question Supplement Vol 1, p381**  
**Written Question - Waitangi Tribunal---Cost of Recommendations**

JOHN LUXTON (Matamata) to the Minister of Maori Affairs:  
What has been the total cost to the Government since 1983 in proceeding to implement the recommendations of the Waitangi Tribunal?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: There have been four claims reported on by the Waitangi Tribunal which have, directly or indirectly, resulted in the Government expending money to implement recommendations. These claims and the related costs to date are:

Claim	Costs
Kaituna	\$21 million subsidy for Rotorua sewage system.
Manukau	\$12,877 on survey costs, survey of Pukaki Creek and a Crown Law Office opinion.
Waiheke	\$5,000 for the cost of a cancelled Tribunal hearing. There is a commitment to further spending as part of a final settlement of this claim also.
Orakei	\$4,504,376 for tribal endowment and debt settlement plus \$1,690 on survey and mapping costs.

The total figure of \$25,524,943 does not distinguish between costs that might have arisen as a matter of course in the normal operations of a Department and those legitimately attributable to the recommendations of the Tribunal. It does not reflect the final amount that will be expended on these four claims either.

**16 Mar, Hansard Question Supplement Vol 1, p382**  
**Written Question 104 - Waitangi Tribunal Land Claims**

JOHN LUXTON (Matamata) to the Minister of Justice: Could he detail the areas of New Zealand currently subject to a claim lodged with the Waitangi Tribunal and could he provide a map highlighting those areas?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: I am unable to precisely detail the areas of New Zealand currently subject to claims lodged with the Waitangi Tribunal. Many claims have been submitted in general terms and it is not until these claims have been thoroughly researched that the precise area to which they relate can be identified. A map detailing the areas of New Zealand currently subject to claims cannot be provided for the above reason.

**11 Apr, Hansard Question Supplement Vol 1, p427**  
**Written Question 4 - Maori Land Rights---Legal Payments**

Hon. G. F. GAIR (North Shore) to the Minister of Finance:  
>From how many Votes in the Estimates are payments being made in the financial year to 31 March 1989, or the transitional quarter to 30 June 1989, for engaging legal advice or representation on matters concerning Maori land rights

or resource claims?

ANSWER :

Hon. DAVID CAYGILL (Minister of Finance) replied: In answering this question, enquiries were confined to those Votes thought most likely to contain payments for engaging legal advice or representation on Maori land rights or resource claims. The following Votes contain(ed) financial provision for these purposes for 1988-89 or the transitional quarter:

Vote: Treasury  
Vote: State Services Commission  
Vote: Agriculture and Fisheries\*  
Vote: Crown Law  
Vote: Justice\*  
Vote: Commerce

\*Expenditure from these Votes comprised payments to the New Zealand Maori Council or to Maori claimants before the Waitangi Tribunal for the purposes specified in the question. The remaining Votes involved payments for advice to, or representation of, the Crown.

**11 Apr, Hansard Question Supplement Vol 1, p428**  
**Written Question 6 - Maori Land Rights---Costs**

Hon. G. F. GAIR (North Shore) to the Minister of Justice:  
In the financial year to 31 March 1989, did his department spend anything in legal fees for advice or representation on matters concerning Maori land rights or resource claims on its own behalf, including on behalf of other departments or agencies of the Government; if so, how much, and in respect of the latter part of the question, how much, if anything, did it recover or is to recover from those other departments or agencies for expenses incurred on their behalf?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: An amount of \$162,973 was paid out by the Department of Justice for legal services to Maori land rights claimants before the Waitangi Tribunal during the year ended 31 March 1989. None of this amount was paid to other departments or agencies of the Government.

**20 Apr, Hansard Question Supplement Vol 1, p570**  
**Written Question 92 - Waitangi Tribunal Claims**

Hon. G. F. GAIR (North Shore) to the Minister of Justice:  
Is it correct that claims now before the Waitangi Tribunal amount to about 85 percent of the land mass of New Zealand, and 100 percent of the fisheries, or, if these are not the particular percentages, what are they?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: It is not possible to make an estimate of the percentage of the area of land and sea covered by claims before the Waitangi Tribunal. Some land claims relate to specific areas of land, others are more general. The exact area of land claimed only becomes apparent when the claims are

heard by the Tribunal at a formal hearing.

The Waitangi Tribunal cannot confirm that claims before it amount to 100 percent of the fisheries of New Zealand. Tribal claims are not framed in terms of specific percentages, rather they claim fishing rights under the treaty in those areas of their tribal influence. Again it is not until the Tribunal sits that matters such as areas and boundaries are considered.

**20 April, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 497, p10097**

**Questions for Oral Answer – Waitangi Tribunal Claims**

Waitangi Tribunal Claims

3. RUTH RICHARDSON (Selwyn) to the Minister of Finance: In aiming to achieve a financial surplus in 1990-91, has he made allowance for expenditure relating to the settlement of Waitangi Tribunal claims?

Hon. DAVID CAYGILL (Minister of Finance): No. The Crown's liability in respect of claims before the Waitangi Tribunal will not be determined until those claims are settled. Therefore at this stage there is no formal allowance in current expenditure forecasts for the settlement of Waitangi Tribunal claims. Provision will be made as claims are settled.

Ruth Richardson: Is the Waitangi Tribunal then a fraud on the claimants because the Government does not intend to settle, and, if it does intend to settle, what advice has the Minister received on the potential liability the Government will face in meeting the claims?

Hon. DAVID CAYGILL: The member has overlooked, probably deliberately, something that I suspect she knows---that is, that the Waitangi Tribunal has only recommendatory powers other than in relation to the State-Owned Enterprises Act. The Government is very sensitive to the weight that should be given to the recommendations, but they remain only recommendations.

Mr J. R. Sutton: If the need for extra expenditure arises would the Minister consider introducing a payroll tax, as advocated by the member for Tamaki?

Hon. DAVID CAYGILL: No, I would not consider doing that. I have read the views on payroll tax of the member for Tamaki, amongst other people. That member spent most of his parliamentary career opposing a payroll tax, but now regrets that the National Government did not impose it.

Hon. J. B. Bolger: What general amount is the Minister putting to one side to fund any successful claims from the Waitangi Tribunal that the Government accepts; or is he proposing, if claims come through, to extend his Budget deficit, or increase taxes, to cover the costs of claims?

Hon. DAVID CAYGILL: Let me repeat my original answer. There is no formal allowance in current expenditure forecasts for the settlement of Waitangi Tribunal claims. Provision will be made as the claims are settled.

**2 May, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 497, p10273**

**Questions for Oral Answer – Maori Land Claims, Tuhourangi Claim**

Maori Land Claims---Tuhourangi Tribe

15. Mr McLEAN (Tarawera) to the Minister of Maori Affairs: Which Government representatives advised the chief of the Tuhourangi people that there will be no problem about the return of land claimed by the tribe that stretches from Lakes Tarawera and Rotomahana to Waitotapu?

Hon. K. T. WETERE (Minister of Maori Affairs): I have been told that Mr Ngawhare Rangipuawhe Maika, the chief concerned, has said that he had been advised by my colleague the Minister of Police, his local member, that, they being the Tuhourangi tribe, ``he believed they had a strong case for the return of this land and that they should take their claim to the Waitangi Tribunal".

Mr McLean: Was the Minister of Police---who is the member for Eastern Maori---speaking on behalf of the Government when he gave such broad and strong assurances to the Tuhourangi people?

Hon. K. T. WETERE: The Minister of Police is also the Minister of Lands, and is well suited to be able to reply to such questions.

Hon. Peter Tapsell: Does the Minister know that the land---the former village site of Tuhourangi---was taken from the Tuhourangi people compulsorily as a protection against further geothermal eruption, and was subsequently made into a tourist resort?

Hon. K. T. WETERE: Ko taku mohio koi na te tikanga o te patai i pataingia e koe ki au.

**16 May, Hansard Question Supplement Vol 1, p691**  
**Written Question 112 - Waitangi Tribunal---Power Board Claims**

Mr LEE (Coromandel) to the Minister of Justice: Have any claims against Power Board assets been lodged with the Waitangi Tribunal; if so, how many claims?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: Tribunals staff are presently able to identify six claims which directly concern lands and waterways used for power generation and transmission purposes. There may be other lodged claims which affect lands or waters used for power generation but this detail would not be known until they come closer to hearing.

**17 May, Hansard Question Supplement Vol 1, p726**  
**Written Question 38 - Land Claims---Area**

Hon. G. F. GAIR (North Shore) to the Minister of Maori Affairs: In the light of the reply by the Minister of Justice to written question No. 92, reply due 20 April 1989, that the exact area of land involved in claims now before the Waitangi Tribunal only becomes apparent when the claims are heard by the Tribunal at a formal hearing, have his advisers provided any estimate of the land mass of New Zealand involved; if so, what is their estimate?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: My advisers have provided me with no estimate of the land mass of New Zealand involved in claims before the Waitangi Tribunal.

**17 May, Hansard Question Supplement Vol 1, p726**  
**Written Question 39 - Fisheries Claims---Size**

Hon. G. F. GAIR (North Shore) to the Minister of Fisheries:  
In the light of the reply by the Minister of Justice to written question No. 92, reply due 20 April 1989, that the Waitangi Tribunal is unable to confirm that claims now before the Tribunal in total amount to about 100 percent of New Zealand's fisheries, have his advisers provided any estimate of the proportion of New Zealand's fisheries involved; if so, what is their estimate?

ANSWER :

Hon. COLIN MOYLE (Minister of Fisheries) replied: My advisers have not provided an estimate of the proportion of New Zealand's Fisheries involved in claims now before the Waitangi Tribunal. As the Minister of Justice stated in answer to written question No. 92, ``the Waitangi Tribunal cannot confirm that claims before it amount to 100 percent of the fisheries of New Zealand. Tribal claims are not framed in terms of specific percentages, rather they claim fishing rights under the treaty in those areas of their tribal influence. Again it is not until the Tribunal sits that matters such as areas and boundaries are considered."

My advisers have no basis on which to estimate the proportion involved given the above situation.

**31 May, Hansard Question Supplement Vol 1, p858-861**  
**Written Question - Waitangi Tribunal Claims---Funding**

Mr McTIGUE (Timaru) to the Minister of Transport: Have any funds been granted to Maori by his Ministry to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Transport) replied: No.

Mr McTIGUE (Timaru) to the Minister of Social Welfare: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. Dr M. CULLEN (Minister of Social Welfare) replied: No funds have been granted to Maori to assist with any claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister for State Owned Enterprises: Have any funds been granted to Maori by state-owned enterprises to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :



Hon. STAN RODGER (Minister for State Owned Enterprises) replied: I am unable to provide an answer to this question. Matters of details over State Owned Enterprises (SOE) expenditure is the responsibility of the Board of Directors of each business. In making funding decisions, SOE Boards are required to have appropriate regard to the commercial criteria outlined in the State-Owned Enterprises Act and defined within each SOE's Statement of Corporate Intent.

Mr McTIGUE (Timaru) to the Minister of Lands: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. PETER TAPSELL (Minister of Lands) replied: No funds have been granted to Maori by my department to assist with funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Police: Have any funds been granted to Maori by his Ministry department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. PETER TAPSELL (Minister of Police) replied: The Police Department have not granted any funds to Maori to assist with claims before the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Consumer Affairs: Have any funds been granted to Maori by her department to assist with funding claims to the Waitangi Tribunal; if so, can she specify what those funds were by claim and amount?

ANSWER :

Hon. MARGARET SHIELDS (Minister of Consumer Affairs) replied: No funds have been granted to Maori by my Ministry to assist with funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Women's Affairs: Have any funds been granted to Maori by her ministry to assist with funding claims to the Waitangi Tribunal; if so, can she specify what those funds were by claim and amount?

ANSWER :

Hon. MARGARET SHIELDS (Minister of Women's Affairs) replied: No funds have been granted by the Ministry of Women's Affairs to assist with funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Employment: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. Dr MICHAEL BASSETT (Acting Minister of Employment) replied: No funds have been granted to Maori by the Department of Labour to assist funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Agriculture: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. COLIN MOYLE (Minister of Agriculture) replied: No.

Mr McTIGUE (Timaru) to the Minister of Defence: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Rt. Hon. R. J. TIZARD (Minister of Defence) replied: No funds from Vote: Defence have been granted to Maori to assist with claims submitted to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Broadcasting: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. JONATHAN HUNT (Minister of Broadcasting) replied: No.

Mr McTIGUE (Timaru) to the Minister of Internal Affairs: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. Dr MICHAEL BASSETT (Minister of Internal Affairs) replied: No funds have been granted to Maori by the Department of Internal Affairs to assist with funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Health: Have any funds been granted to Maori by her department to assist with funding claims to the Waitangi Tribunal; if so, can she specify what those funds were by claim and amount?

ANSWER :

Hon. HELEN CLARK (Minister of Health) replied: No.

Mr McTIGUE (Timaru) to the Minister of Pacific Island Affairs: Have any funds been granted to Maori by his department to assist

with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. RUSSELL MARSHALL (Minister of Pacific Island Affairs) replied:  
No funds have been granted to Maori by the Ministry of Pacific Island Affairs to assist with funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Maori Affairs: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: No funds have been granted by my Department to any claimant before the Waitangi Tribunal to assist with meeting their costs for any such claim.

Mr McTIGUE (Timaru) to the Minister of Labour: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Rt. Hon. R. J. TIZARD (Acting Minister of Labour) replied: No funds have been granted to Maori by the Department of Labour to assist funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Finance: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. DAVID CAYGILL (Minister of Finance) replied: No funds have been granted.

Mr McTIGUE (Timaru) to the Minister for the Environment: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister for the Environment) replied:  
The Ministry has not provided any funding for claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Justice: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Minister of Justice) replied: As at 31 March 1989 the following amounts have been made available to help claimants thoroughly research their claims:

	\$
Ngaitahu (South Island) .. .. .	128,897
Ngati Whatua (Te Roroa) .. .. .	12,000
Taranaki Tribes .. .. .	94,000
Tainui .. .. .	76,000
Ngati Awa .. .. .	63,500
Muaupoko .. .. .	12,000
Ngati Rauhoto (Taupo) .. .. .	31,000

An additional amount of \$172,251.41 has been made available to assist claimants with legal and counsel costs as follows:

	\$
Ngaitahu .. .. .	117,323.50
Muriwhenua and Mangonui claims .. .. .	30,449.28
Rangitane Cross Claim .. .. .	24,478.63

Mr McTIGUE (Timaru) to the Minister of Education: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Rt. Hon. DAVID LANGE (Minister of Education) replied: No grants have been made by the department to assist with funding claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Tourism: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. JONATHAN HUNT (Minister of Tourism) replied: No funds have been granted to assist with any claims to the Waitangi Tribunal.

Mr McTIGUE (Timaru) to the Minister of Conservation: Have any funds been granted to Maori by his department to assist with funding claims to the Waitangi Tribunal; if so, can he specify what those funds were by claim and amount?

ANSWER :

Hon. PHILIP WOOLLASTON (Minister of Conservation) replied: No funds have been granted to Maori by my department to assist with funding claims to the Waitangi Tribunal.

**16 Aug, Hansard Question Supplement Vol 2, p1296**  
**Written Question 6 - Ngai Tahu Claimants**

Mr R. J. S. MUNRO (Invercargill) to the Minister of Justice:  
What cash or other contributions, if any, including free services from any agency of the New Zealand Government, have been made available to the Ngai Tahu claimants before the Waitangi Tribunal for research, legal expenses or other assistance in claims; specifying amounts and dates?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: As at 31 March 1989 an amount of \$128,897 was made available to the Ngai Tahu Trust Board to assist the Trust Board in researching its claims before the Waitangi Tribunal.

As at 31 March 1989 an amount of \$167,000 was made available by Judges direction to assist Ngai Tahu with counsel costs.

The assistance of Ngai Tahu was approved in accordance with the provision of the Treaty of Waitangi Act 1985.

**7 Sept, Hansard Question Supplement Vol 2, p1445**  
**Written Question 2 - Maori Land Claims**

Mr R. F. H. MAXWELL (Taranaki) to the Minister of Survey and Land Information: What is the level of resources committed to identifying areas of land where Maori have laid claim to areas which have been or are likely to be sold as part of the Government asset sales programme?

ANSWER :

Hon. PETER TAPSELL (Minister of Survey and Land Information) replied: DOSLI answers enquiries and provides advice about Maori land claims, lodged with the Waitangi Tribunal, not only from prospective Maori but also general interest groups and SOEs. The cost to DOSLI of updating the maps in relation to new claims lodged with the Waitangi Tribunal over the last six months has been in the vicinity of \$4,000.

**7 Sept, Hansard Question Supplement Vol 2, p1445**  
**Written Question 3 - Maori Land Claims**

Mr R. F. H. MAXWELL (Taranaki) to the Minister of Survey and Land Information: Does he intend that all the areas claimed by Maori be separately identified on the titles of land sold as part of the Government asset sales programme?

ANSWER :

Hon. PETER TAPSELL (Minister of Survey and Land Information) replied: Current legislation does not require areas involved in claims lodged before the Waitangi Tribunal to be separately identified on the titles of land sold to State Enterprises. Such titles are subject to a clause enacted by the Treaty of Waitangi (State Enterprises) Act 1988 which allows the land to be resumed by the Crown if a Maori claim is successful.

**21 Sept, Hansard Question Supplement Vol 2, p1545**  
**Written Question 8 - Maori Claims---Legal Costs**

JOHN BANKS (Whangarei) to the Minister of Justice: How much taxpayer money has been paid yearly from Vote Justice over the past 5 years for legal aid or costs and disbursements pursuant to Maori land and fishing claims, and how much is budgeted for this year?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: Legal assistance to claimants under the Treaty of Waitangi may be provided as Legal Aid in terms of the Legal Aid Act 1969 or by the appointment of counsel by the Waitangi Tribunal under the Treaty of Waitangi Act 1975.

I am unaware of any expenditure having been made for Legal Aid under the Legal Aid Act 1969. The following details relate to other legal assistance provided by the Tribunal.

Prior to 1 April 1989 much of the expenditure for legal assistance relating to claims under the Treaty of Waitangi was classified along with expenditure for other professional services. It would be a considerable exercise to extract this detail for earlier years. I have asked for this to be undertaken and will provide the information to the honourable member and to the clerk of the house as soon as it is available.

For the financial year 1 July 1989-30 July 1990 the Waitangi Tribunal Division has budgeted \$245,000 towards the cost of legal services and the provision of legal assistance to claimants. As at 31 August 1989 \$39,000 of this allocation had been expended. For the transitional quarter (1 April 1989-30 June 1989) \$48,000 was spent on these legal services. The 1 April 1988-31 March 1989 outturn shows \$167,000 was spent on legal services, however during this period some expenditure on legal assistance to claimants as I have stated above may have been classified as "professional services" expenditure.

All the above figures exclude GST.

**10 Oct, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 502, p13040**  
**New Zealand Bill of Rights Bill** (Introduction and First Reading)

*Palmer* states –

Unlike the white paper draft, the Bill makes no reference to the Treaty of Waitangi. The white paper draft would have recognised and affirmed the rights of the Maori people under the treaty, but, as a result of several submissions and of several hui held by Maori people, the select committee recommended the omission of the provisions relating to the treaty. A second reason was that the relevance of the treaty and its principles are increasingly being addressed in other legislation. The third reason was that there was opposition by many Maori organisations to any reference to the treaty in a general Bill of Rights.

Followed by several references in debate to lack of inclusion of Treaty, Government saying it was not included because (in addition to above reasons) it was too important to be included in statute that was not entrenched. Similar references in

further debates on Bill of Rights Act (17 July 1990, Vol 509, pp2798-2807; 14 Aug 1990, Vol 510, pp 3449-3473; 21 Aug 1990, Vol 510 pp3760-3773).

**18 Oct, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 502, pp13265-13266**

**Questions for Oral Answer – Treaty of Waitangi Compensation**

Treaty of Waitangi---Compensation

11. RUTH RICHARDSON (Selwyn) to the Minister of Finance: In the light of the Court of Appeal decision in *Tainui v. Coalcorp*, what plans, if any, does he have to allocate funds for "some form of more real and constructive compensation" that the President of the Court of Appeal states "is obviously called for if the Treaty of Waitangi is to be honoured"?

Hon. DAVID CAYGILL (Minister of Finance): As I have indicated to the member before, the Government does not intend to allocate funds in anticipation of settlement with Maori over any Treaty of Waitangi claim. Appropriate financial provisions will be made once any settlements between the Government and Maori have been reached.

Ruth Richardson: Did the Government know when it passed the Treaty of Waitangi (State Enterprises) Act that it was giving the New Zealand courts economic and policy dictate?

Mr SPEAKER: Order! I am not sure that that is a matter for which the Minister is responsible.

Ruth Richardson: I raise a point of order, Mr Speaker. With respect, a careful reading of the Court of Appeal judgment will reveal that the court now has policy and economic dictate as a result of legislation for which the Government was responsible, and this is a logical consequence of the Government's legislation to which I refer.

Mr SPEAKER: It seemed to me that as the Minister was not the Minister responsible for the Act the question was not directed to the correct Minister. If he is able to answer, I invite him to do so; if not, we will move on to the next question.

Hon. DAVID CAYGILL: I am happy to answer the question because it is an important matter. A better view of the position that the country is in is that the State-Owned Enterprises Act is by no means as significant in this matter as the member is suggesting. In its absence we would almost certainly be facing the same claims under the footing of the treaty. A considerable body of opinion would suggest that in the absence of the Treaty of Waitangi we would be facing the same claims simply on the footing of common law aboriginal rights.

Trevor Mallard: Will the possible allocations include extra funds from the Consolidated Account to Telecom Corporation and Air New Zealand Ltd to improve communications to London?

Hon. DAVID CAYGILL: The Government is not contemplating that at present.

**18 Oct, Hansard Question Supplement Vol 2, p1783**

**Written Question 56 – New Zealand Bill of Rights**

Hon. G. F. GAIR (North Shore) to the Prime Minister: Is the relationship of the Treaty of Waitangi to the question of "rights" treated differently in the recently introduced New Zealand Bill of Rights Bill from the treatment accorded the Treaty in the earlier bill the recent bill is intended

to replace; if so, in what respects, and why the change?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Prime Minister) replied: This draft bill in the White Paper on a Bill of Rights for New Zealand would have affirmed the rights of the Maori people under the Treaty of Waitangi. The New Zealand Bill of Rights Bill does not refer to the Treaty. However, the Bill specifies that existing rights are not affected by reason only of their omission from the Bill. The change reflects the recommendation of the select committee considering the White Paper. The committee noted that one reason for including the Treaty was that it must be seen as essential in any supreme constitutional law which might be enacted. This reason is inapplicable to the present Bill, which is an ordinary statute. The Committee also noted that questions about compliance with the Treaty are increasingly being addressed in other ways, for example, by individual statutes and by the Waitangi Tribunal. A further reason is the opposition of many Maori and Maori organisations to reference to the Treaty in a general bill of rights.

**7 Nov, Hansard Question Supplement, Vol 3, p1882**  
**Written Question 186 - Waitangi Tribunal Division Research**

Mr R. J. S. MUNRO (Invercargill) to the Minister of Justice: How many contract researchers have entered contracts with his department to provide research for the Waitangi Tribunal Division since its commencement; what is the total budget of the Division for 1989-90?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: A total of 42 researches have been contracted to provide research for the Waitangi Tribunal Division since its commencement. The total budget of the Division for the 1989-90 period is \$2.868 million.

**7 Nov, Hansard Question Supplement p1882**  
**Written Question 187 - Waitangi Tribunal Division Research**

Mr R. J. S. MUNRO (Invercargill) to the Minister of Justice: Further to question for written answer No. 186, lodged 7 November 1989, please detail the claim or claims each researcher is at present working on?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: Researchers are currently working on the following claims: Wai 27, Ngaitahu; Wai 30, Tainui; Wai 32, Te Ngae; Wai 33, Pouakani; Wai 38, Maunganui/Waipoua; Wai 42, Ngati Ranginui; Wai 45, Muriwhenua Lands; Wai 46, Ngati Awa; Wai 47, Ngaiterangi/Ngati Ranginui and Wai 54, Taranaki.

**7 Nov, Hansard Question Supplement Vol 3, p1885**



### **Written Question 202 - Departmental Services---Recipients**

JOHN LUXTON (Matamata) to the Minister of Maori Affairs:  
What were the working groups and committees serviced by the treaty issues and land liaison activity of the Department of Maori Affairs last year, how many of those are still in existence, and what is the function of each one and the number of members?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied:  
TREATY ISSUES

- \*1. Officials Co-ordinating group on the Treaty of Waitangi (4)
  - \*2. Officials advisory group on sale of Forest (6)
  - \*3. Officials advisory group on implementary Waitangi Tribunal Manukau recommendation (9)
  - \*4. Officials Co-ordinating Committees on Local Government
  - \*5. Officials Co-ordinating Committees on sale of Telecom (6)
  - \*6. Officials Co-ordinating Committees on Indigenous Forest Policy (4)
  - \*7. Officials Co-ordinating Committees on Resources Management Law Reform (15)
  - \*8. Officials Co-ordinating Committees on Maori Mineral Ownership (5)
  - \*9. Technical Advisory to the Auckland Regional Water Board group on Manukau Harbour (20)
  - 10. Officials advisory group on sale of Coalcrop (6)
  - \*11. Officials advisory group on Settlement of Maori land claims (8)
  - 12. Officials Group on Tainui negotiations (3)
  - 13. Officials Group on Revision of Land Act (8)
  - 14. Officials Group on NZ Response to Bruntland Report (10)
  - \*15. Officials Group on Genetically Modified Organisms (10)
  - 16. Officials Group on Protected Areas Legislation Review (8)
  - 17. Maori Advisory Committee to the Historic Places Trust (8)
  - 18. Komiti Whenua Toitu---QE II National Trust (5)
  - 19. Officials Group on Geothermal Energy---Ngah Whakaue (6)
  - 20. Advisory Group on Fisheries---various
  - 21. Official Group on Allocation (10)---superseded by another structure
  - 22. Historic Places Act Review (6)
  - 23. Maori Consultative Group on Local Government (10).
- \* Still in existence.

### **7 Nov, Hansard Question Supplement Vol 3, p1886 Written Question 203 - Waitangi Tribunal Recommendations**

JOHN LUXTON (Matamata) to the Minister of Maori Affairs:  
Has the Government included any budget allocation for the settlement of Treaty or land grievance deliberations as a result of the Waitangi Tribunal recommendations during the current financial year; if not, why not?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: Where

Government implements a Treaty of Waitangi Tribunal recommendation, any Government funding will be contained in the Vote considered most appropriate. This may or may not be Vote: Ministry of Maori Affairs. At present the Ministry has not been directed to implement any particular recommendation made by the Tribunal. Accordingly no budget allocation has been provided.

**16 Nov, Hansard Question Supplement Vol 3, p2009**  
**Written Question 61 - Waitangi Tribunal Claims**

JOHN LUXTON (Matamata) to the Minister of Maori Affairs:  
Does the budget this year contain any funding provisions for the settlement of claims lodged with the Waitangi Tribunal; if not, why not?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: I refer the member to my answer to his question No. 203, due for reply on 15 November.

**21 Nov, Hansard Question Supplement Vol 3, p2016**  
**Written Question 9 – Waitangi Tribunal Claims**

JOHN LUXTON (Matamata) to the Minister of Justice: How many claim applications have been received by the Waitangi Tribunal, how many have been rejected as not complying with the Treaty of Waitangi Act 1975, how many have been withdrawn before hearing, how many are awaiting hearing, how many are currently being considered by the Tribunal and how many have been considered by the Tribunal?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: The Waitangi Tribunal has received 226 applications and enquiries since 1975. Twelve of these were referred to other agencies for their attention and 112 did not comply with section 6 of the Treaty of Waitangi Act 1975. Seven claims have been withdrawn before hearing.

To proceed to hearing the Tribunal has an expectation that the parties, ie the claimant and the Crown, are in a state of readiness to be heard.

There are 21 claims being researched or otherwise prepared for consideration by the Tribunal. None are ready to be heard.

A further three claims have been heard and reports on them to the Minister of Maori Affairs are being prepared. Three claims are in the process of hearing or mediation.

Sixteen claims have been concluded and reported on to the Minister.

**23 Nov, Hansard Question Supplement Vol 3, p2074**  
**Written Question 2 - Maori Land Claim, Mangonui Bluff**

2. JOHN CARTER (Bay of Islands) to the Minister of Justice:  
Is it correct that no provision has been made for the Waitangi Tribunal to have jurisdiction over privately owned land and is it correct that the Waitangi Tribunal are dealing with a Maori land claim that encompasses

privately owned land in the name of Mr Alan Titford of Mangonui Bluff; if so, why?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: The jurisdiction of the Waitangi Tribunal is set out in the Treaty of Waitangi Act 1975 and the Treaty of Waitangi (State Enterprises) Act 1988. In brief it is to consider claims by Maori prejudicially affected by any Crown action or policy since 1840. These actions or policies complained of may relate to land now in private hands but the Tribunal has no jurisdiction to make any orders about private land. The Tribunal is currently hearing a claim which includes a complaint that the Crown failed to set aside land as a reserve and protect burial sites and other wahi tapu sites on the land. Some of these sites are incidentally under the protection of the Historic Places Act. The land is within the property of Mr Alan Titford. The Tribunal may only make recommendations about these matters to the Crown. For the benefit of the honourable member I repeat what the then Deputy Prime Minister, Geoffrey Palmer, has stated and has been reported in the Evening Post of 29 June 1989 as saying . . . ``It can only make a recommendation. The Government is not obliged to follow it. If the recommendation is that the Government should resume private land, the Government has no power to do that."

**28 Nov, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 503, p13760**  
**Questions for Oral Answer – Waitangi Tribunal**

Waitangi Tribunal

2. Mr McLEAN (Tarawera) to the Minister for State-owned Enterprises: Does he intend to amend the Treaty of Waitangi (State Enterprises) Act to remove the power from the tribunal to determine compensation in claims against State-owned enterprise assets?

Hon. STAN RODGER (Minister for State-owned Enterprises): No, I do not intend to amend the Act to remove the power from the tribunal to determine the compensation in claims against State-owned enterprise assets.

Mr McLean: Has the Minister been told by the Prime Minister about the way he intends to contain Maori appetites and pakeha apprehensions that he released from Pandora's box under the powers in the Treaty of Waitangi (State Enterprises) Act?

Mr SPEAKER: Order! The member is putting forward a debating point, not a question. He did ask how the Minister hopes to contain the apprehensions and appetites.

Hon. STAN RODGER: The answer is that they will be contained quite well, because the legislative provisions are adequate. Under the Treaty of Waitangi (State Enterprises) Act the tribunal has the power to make a binding recommendation requiring the Crown to return to Maori claimants land that has been transferred from the Crown to a State-owned enterprise. Provisions in the Act require the Crown to pay compensation to the owner of the land under the Public Works Act.

Richard Northey: Can the Minister confirm that, as shown by the dividend payments, claims before the tribunal in respect of assets of State-owned enterprises have had little effect on the performance of those enterprises?

Hon. STAN RODGER: That is quite clearly the case. The proceedings of the tribunal are separate from the commercial operation of the State-owned enterprises, which, I am pleased to report to the House, have been progressing very satisfactorily and bringing a good return to the taxpayer for the long-term investment in them.

**5 Dec, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 503, p14059**

**Questions for Oral Answer – Treaty of Waitangi**

Treaty of Waitangi

15. Mr McCLAY (Waikaremoana), on behalf of Mr UPTON (Raglan), to the Prime Minister: Has he seen the booklet on the Treaty of Waitangi by the New Zealand 1990 Commission stating that the treaty ``continues today as a pact of partnership between Maori and Pakeha"; if so, does that statement correctly represent the Government's policy on the constitutional significance?

Rt. Hon. GEOFFREY PALMER (Prime Minister): The document referred to is not a Government document; it does not purport to state Government policy.

Mr McClay: Does that stated policy coincide with the Government's policy?

Rt. Hon. GEOFFREY PALMER: There is no doubt that the Treaty of Waitangi is an important constitutional document in New Zealand, but to characterise it in several words in that fashion does not do it justice.

Hon. J. B. Bolger: Given the vagueness of the Prime Minister's original reply---and as the issue is important---is the statement put out by the New Zealand 1990 Commission, which will be widely circulated, in any way contrary to the Government's interpretation of the status of the Treaty of Waitangi as it applies to New Zealand at present?

Rt. Hon. GEOFFREY PALMER: I do not want to say anything disparaging about the commission's document. It is excellent, and it says a great deal about many features of New Zealand life; in fact, the document is very lengthy. However, the Government cannot be seen to endorse its every statement. It is not a Government document---a white paper, or anything of that sort.

## 1990

**7 Mar, Hansard Question Supplement Vol 4, p284**

**Written Question 21 - Cabinet Committee on Treaty of Waitangi Issues**

Hon. G. F. GAIR (North Shore) to the Prime Minister: What is the brief for the Cabinet committee on Treaty of Waitangi issues?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Prime Minister) replied: The brief for the Cabinet Committee on Treaty of Waitangi Issues is:

- (i) To develop a clear and consistent policy and legislative framework in respect of Maori interests in natural resources;
- (ii) To develop and communicate clear procedures for the handling

- of Maori claims when they are received by departments;
- (iii) To develop and monitor a "negotiations register" so that Maori claims can be prioritised and handled in an orderly sequence;
- (iv) To develop the Crown's position in respect of specific negotiations, Waitangi Tribunal hearings or Court proceedings;
- (v) To ensure prompt implementation of negotiated agreements, Waitangi Tribunal recommendations accepted by the Government, and Court judgments;
- (vi) To monitor public awareness of and attitudes to Maori claims and to identify, in the national interest, appropriate material to remedy misinformation.

**5 Apr, Hansard Question Supplement Vol 4, p684**  
**Written Question 50 - Ngai Tahu Tribe---Claim**

Hon. G. F. GAIR (North Shore) to the Minister of Maori Affairs:  
 Is it correct that the Ngai Tahu Tribe now have a claim with the Waitangi Tribunal seeking, inter alia, higher rental income from Maori lands on the South Island's west coast, and will he give an assurance to the West Coast (SI) Maori Leaseholders' Association Inc. that he will not introduce legislation to give effect to such claim until the Tribunal's hearing on the Ngai Tahu claim has been completed and reported?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: It is correct that the question of Maori Reserved Land on the West Coast is raised in the Ngai Tahu claim at present before the Waitangi Tribunal. I have announced that I hope to introduce legislation on Maori Reserved Lands this year. This legislation will attempt to rectify existing and future injustices to the owners of the land in question. There has never been any intention to link the timing of the legislation with the report of the Tribunal on the Ngai Tahu claim.

**11 Jul, Hansard Question Supplement Vol 6, p1365**  
**Written Question 1 - Maori Land Claims**

Hon. J. H. FALLOON (Pahiatua) to the Minister of Maori Affairs:  
 What was the total amount paid by the Government in each of the last six years for settlement of Maori land and sea claims under the Treaty of Waitangi; how many claims are listed; what was requested in each claim; and what was the cost of each claim?

ANSWER :

Hon. K. T. WETERE (Minister of Maori Affairs) replied: Specific government departments are made responsible, by Cabinet, for the settlement of land and sea claims under the Treaty of Waitangi. Cabinet has usually, either accepted the Waitangi Tribunal recommendations with regard to the implementation of their recommendation, or has directed that such a responsibility function shall rest with a specific named department. A detailed data base on

such expenditure is being prepared by the Justice Department and up to date information will then be easily accessible. Information concerning the questions asked by the honourable member is therefore being collated, from a number of departments and a written response will be forwarded in the immediate future.

**19 Jul, Hansard Question Supplement Vol 6, p1549**  
**Written Question 219 - Maori Interpreters---Hourly Rates**

WINSTON PETERS (Tauranga) to the Minister of Justice: What is the hourly rate paid by the Waitangi Tribunal to interpreters of Maori?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: The rate is \$25.00 per hour.

**21 Aug, Hansard Question Supplement Vol 6, p1769**  
**Written Question 16 - Waitangi Tribunal---Compensation**

WINSTON PETERS (Tauranga) to the Prime Minister: Has the government formulated a policy to deal with the Waitangi Tribunal recommending the resumption of land formerly owned by the Crown and subsequently transferred to a State-owned enterprise; if so, can he give an assurance that full compensation will be paid by the Crown where it accepts the recommendations of the Tribunal; if so, will such compensation include improvements and additions effected to the land since the date of transfer to the State-owned enterprise?

ANSWER :

Rt. Hon. GEOFFREY PALMER (Prime Minister) replied: Section 27C of the State-Owned Enterprises Act 1986, as amended by the Treaty of Waitangi (State Enterprises) Act 1988, provides that resumption of land under section 27B will be effected under the Public Works Act 1981.

The Public Works Act 1981 provides for compensation and sets out procedures for making such compensation.

**30 Aug, Hansard Question Supplement Vol 6, p1929**  
**Written Question 48 - Departmental Payouts**

Mr R. J. S. MUNRO (Invercargill) to the Minister of Justice: Further to the reply to written question No. 11, reply due 8 June 1989, from the member for Timaru, what further money has been paid out by or with the knowledge of his department?

ANSWER :

Hon. W. P. JEFFRIES (Minister of Justice) replied: Between 1 April 1989 and 30 June 1990 the following amounts have been paid from Vote Justice to assist claimants with their claims before the Waitangi Tribunal.

Claim No.	Name	Iwi	Legal Research	Counsel
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			\$	\$
Wai 27	Ngai Tahu	Ngai Tahu	72,586	194,610
Wai 32	Rangiteaorera	Rangiteaorera	1,323	23,558
Wai 33	Pouakani	Ngati Maniapoto	10,000	43,088
Wai 36	Tuhoe	Tuhoe	40,000	-
Wai 38	Te Roroa	Te Roroa	-	122,320
Wai 44	Kurahaupo Waka	Rangitane	-	25,870
Wai 45	Muriwhenua	Muriwhenua area tribes	35,900	-
Wai 46	Ngati Awa	Ngati Awa	51,753	-
Wai 52	Muaupoko	Muaupoko	3,057	-
Wai 55	Te Whanganui-O-Rotu	Kahugunu	10,000	-
Wai 102	Rangitane	Northern South Island Tribes	25,000	-
Wai 119	Mohaka	Ngati Pahauwera	15,000	-
Totals			264,618	409,466

#### 4 Sept, 42<sup>nd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 510, pp4201-4214

##### Orakei Bill (Introduction and First Reading)

See *Transcripts of Debates*, p165

Begins with several points of order, referring to fact that Parliament would be dissolved several days subsequent, and that the Bill had little prospect of progressing given that Select Committees could not sit while Parliament was dissolved.

**K Wetere (Min of Maori Affairs)** outlines details of Orakei settlement (made on basis of Tribunal recommendations).

**Muldoon** says the Orakei report has been before the Government for a very long time (report issued by Tribunal Nov 1987, almost three years earlier) and that introducing the Bill at this stage is a purely political gesture. Refers to 1978 settlement which purported to be full and final.

**Dr Gregory** points out that current Bill deals with much greater area of land than 1978 settlement did.

**W Peters** refers to recently passed Runanga Iwi legislation and wonders why settlement not made with Ngati Whatua runanga. Refers to one clause of Bill which provides that Ngati Whatua cannot alienate their land – says this treats them as a “child”.

**W Kyd** refers to 1978 settlement, agreeing that more land involved in current settlement but this is because Tribunal decided not enough compensation given in 1978. Says 1978 settlement was an honourable settlement agreed to by Ngati Whatua elders and both sides of the House. Says Tribunal should not be able to revisit the matter.

**V S Young** questions appropriateness of Tribunal revisiting the matter –

As my colleague has said, a full and proper settlement was negotiated and confirmed, then brought before the Waitangi Tribunal once more. A large part of those findings were found by the tribunal to be fair, but the tribunal went further than that. If one is to place credence and confirmation in the recommendations of the Waitangi Tribunal, how often must it be asked to make a recommendation on the same issue?

**McClay** notes that Tribunal decision came out in 1987 and asks why Government has taken so long to introduce legislation –

...the Minister of Maori Affairs seeks to introduce a Bill that he knows Will not be passed. He has had so much time. The Waitangi Tribunal Made its recommendations in 1987. What has the lazy Minister been Doing for 3 years? If he really wanted to implement the findings he Would have introduced a Bill in 1988, 1989, or even earlier this Year. The Bill typifies the Government's mismanagement of matters Maori. The Government cannot meet the recommendations of the Waitangi Tribunal, so it pretends to want to meet them. It pretends by Introducing the Bill. Maori people will not be fooled. They know that the Bill cannot be implemented.

**Tirikatene-Sullivan** points out that at the time of the 1978 settlement, the Tribunal did not have jurisdiction to consider the claim –

The Waitangi Tribunal did not have the power to consider cases that arose before 1975 when it was originally introduced. Therefore the matter could not be considered in the manner in which the Bill is being considered without the change in the jurisdiction of the Waitangi Tribunal back to 1840. Those are the simple reasons for the introduction of the Bill.

The jurisdiction of the Waitangi Tribunal now goes back to 1840, and therefore the Bill incorporates the Act of 1978 and extends its capacity according to the finding of the tribunal.

----- NATIONAL GOVERNMENT COMES INTO POWER -----

## 1991

### **28 May, Hansard Question Supplement Vol 9, p1256** **Written Question 85 - Lake Ellesmere**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Justice: Does the Crown intend returning Lake Ellesmere to Ngai Tahu as recommended by the Waitangi Tribunal; if so, when?

ANSWER :

Hon. PAUL EAST (on behalf of the Minister of Justice) replied: The Government is currently considering the Ngai Tahu Report including those findings and recommendations which relate to Lake Ellesmere.

### **20 Jun, Hansard Question Supplement Vol 9, p1568** **Written Question 43 - Cabinet Committee**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Maori Affairs: Why did he resign as chairman of the Cabinet committee on the Treaty of Waitangi issues?

ANSWER :

Hon. WINSTON PETERS (Minister of Maori Affairs) replied: I did not resign as chairman of the Cabinet Committee on Treaty of Waitangi



Issues.

I simply pointed out that if the Minister of Justice was to have the responsibility of negotiating Waitangi Tribunal claims, then it was logical that the Minister of Justice should also chair the Cabinet Committee on Treaty of Waitangi Issues.

**2 Jul, Hansard Question Supplement Vol 10, p1816**  
**Written Question 53 - Properties, Canterbury---Ngai Tahu Tribe**

Ms GAIL McINTOSH (Lyttelton) to the Minister in Charge of the Iwi Transition Agency: How many properties, if any, owned by his agency in Canterbury cannot be disposed of because of a declared statement of interest by the Ngai Tahu Tribe; and what is the address and value of each property?

ANSWER :

Hon. WINSTON PETERS (Minister in Charge of the Iwi Transition Agency) replied: The Iwi Transition Agency presently owns two blocks of Kaumatua flats, three hostels and five sections in Canterbury. There has been no hold up in disposal of the agency's properties due to the Ngai Tahu claim to the Waitangi Tribunal. Prior to disposal of any of its property assets, the agency requests the Department of Survey and Land Information to research the title to consider any treaty issues pending that would impede the sale.

**5 Aug, Hansard Question Supplement Vol 11, p2369**  
**Written Question 2 - Maori Land Claims**

JEFF WHITTAKER (Hastings) to the Minister of Justice: How many privately-owned farms are involved in the 4001 pieces of land reported to be subject to Maori claims; what is the size of each, and what type of farming is each operating in?

ANSWER :

Hon. D. A. M. GRAHAM (Minister of Justice) replied: The 4001 pieces of land are lands which the Waitangi Tribunal may recommend be returned to Maori if a claim is made for the lands and if the Tribunal finds the claim well founded. They are former Crown lands, now transferred to State owned enterprises. Some of these lands are farm lands. They may be on-sold to private owners. No statistics are kept of sale to private owners or the nature of farming activities. The private owner would be notified before purchase, by a memorial on the certificate of title, that the land may be subject to Maori claim. Land that is held under deferred payment licence or lease with the right of purchase is exempt from this scheme.

**21 Aug, Hansard Question Supplement Vol 11, p2680**  
**Written Question 242 – Increased Grant**

Hon. Mrs T. W. M. TIRIKATENE-SULLIVAN (Southern Maori) to the Minister responsible for the National Library: Further to his reply to question for written answer No. 71, reply due 8 August 1991, does he intend to increase the grant to the National Library to cater for the 42 percent

increase in usage of the Alexander Turnbull Library?

ANSWER :

Hon. Dr LOCKWOOD SMITH (Minister responsible for the National Library) replied: The Alexander Turnbull Library has experienced significant increases in usage. There have been no corresponding increases in the National Library's budget. The Alexander Turnbull Library has been working on a number of fronts to improve access to New Zealand's heritage material. Strategies include:

- Reducing the pressure on the actual resources by making copies of work in high demand and making these available to local libraries and research centres. This effectively increases access to materials and makes them available outside Wellington.
- Streamlining of services and development of guides has provided self service facilities for family historians and those using basic reference tools.
- Working with other agencies to develop strategies to cope with the increased demand for research for the Waitangi Tribunal.
- Implementing an automated system for unpublished material held by the Turnbull to improve management of and access to the Library's manuscript collections.

**25 Sept, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 519, p4479**

**Questions for Oral Answer – Maori Claims – Privately Owned Farms**

Maori Claims---Privately Owned Farms

10. JEFF WHITTAKER (Hastings) to the Minister of Justice: Are any privately owned farms involved in the 4001 pieces of land subject to Maori claim; if so, how many?

Hon. D. A. M. GRAHAM (Minister of Justice): Only land sold by a State-owned enterprise is subject to repurchase by the Crown under The 4001 memorials registered against the relevant title, and that Resumptive right is known to the purchaser at the time of sale. I am Unaware of how many such properties are farms, and, in any event, Some may be farmed after the sale but not before. Other than by the exercise of that resumptive right, no private owner can be forced to sell to the Crown his or her farm or any other property to enable the Crown to settle claims by Maori.

Jeff Whittaker: How is the resumptive right made known to the purchaser?

Hon. D. A. M. GRAHAM: The purchaser is informed by the Crown that that is a condition of sale and that a memorial will be registered against the title in each case.

**8 Oct, Hansard Question Supplement Vol 11, p2941**

**Written Question 123 - Adjustment Assistance---Cost**

BILL ENGLISH (Wallace) to the Minister of Forestry: What has been the total cost of adjustment assistance to native forest land owners and logging contractors, and was this budgeted for when the decision to continue the export ban was made?

ANSWER :

Hon. JOHN FALLOON (Minister of Forestry) replied: The estimated cost of the indigenous forest policy ``adjustment assistance scheme" is \$28.85 million. When the decision to continue the export ban was taken by the previous Labour government, the Cabinet approved an amount of \$25 million for ``adjustment assistance". Since then it has approved a net increase of \$3.85 million. The figures above do not include the cost, which is currently unknown, of paying compensation to owners of forest held under the South Island Landless Natives Act. This claim was lodged with the Treaty of Waitangi Tribunal and is currently at an early stage of negotiation. No finance has yet been approved to meet the cost of the Treaty of Waitangi claim. An amount of \$300,000 has, however, been approved to enable the collection of resource information on forest held under the South Island Landless Natives Act. This information is required to enable the compensation negotiations to proceed.

**29 Oct, Hansard Question Supplement Vol 12, p3297**  
**Written Question 74 - Ngai Tahu Claim Settlement**

Hon. Mrs T. W. M. TIRIKATENE-SULLIVAN (Southern Maori) to the Minister of Maori Affairs: Does he intend settlement of the Ngai Tahu claim to be finalised before the cross-claim from the tribe in the Northern South Island is resolved?

ANSWER :

Hon. DOUG KIDD (Minister of Maori Affairs) replied: The Government has accepted the recommendations of the Waitangi Tribunal that the Crown should negotiate a settlement of the Tribunal's findings in respect of the Ngai Tahu claim. The filing of a cross claim will not be allowed to interfere with that negotiation process. However, should the Waitangi Tribunal bring down a finding in respect of any cross claim before the main negotiations have been concluded those subsequent findings would be taken into account.

**19 Nov, Hansard Question Supplement Vol 12, p3389**  
**Written Question 26 - Muriwhenua Land Claim**

JOHN BLINCOE (Nelson) to the Minister of Maori Affairs: In respect of the Waitangi Tribunal's recommendation to him of 30 October relating to the Muriwhenua land claim, is he taking any action to prevent the sale of state enterprise or Crown surplus land in Muriwhenua during the currency of the Muriwhenua inquiry, without prior consultation with the Muriwhenua runanga; if so, what action?

ANSWER :

Hon. DOUG KIDD (Minister of Maori Affairs) replied: The Minister of Maori Affairs received the report of the Waitangi Tribunal on 30 October 1991. The report was submitted to Cabinet on 4 November 1991 as is required to be done by the Treaty of Waitangi Act 1975. The policy issues raised by the recommendations made in that report are presently being addressed by the Officials' Standing Committee on

Treaty of Waitangi Issues. This includes the aspect of the recommendation relating to the sale of State Enterprise and surplus Crown land in the Muriwhenua rohe during the currency of the Muriwhenua enquiry. The report by officials will then be referred to the Cabinet Committee on Treaty of Waitangi Issues for consideration.

**19 Nov, Hansard Question Supplement Vol 12, p3395**  
**Written Question 45 - Pureora Forest**

JIM ANDERTON (Sydenham) to the Minister for State Owned Enterprises: Has he received any information about New Zealand Timberlands Limited's plans to include 1967 ha of Pureora Forest in cutting rights for sale; if so, what information and is it correct that the previous Government undertook to transfer the forest to the Native Forest Restoration Trust because it provides a habitat for the rare kokako, contains important stands of native totara and is subject to Maori claims under the Waitangi Tribunal?

ANSWER :

Hon. MAURICE McTIGUE (Minister for State-Owned Enterprises) replied: The Government is offering shares in NZ Timberlands Ltd., or its assets, for sale. The assets for sale include 1966 hectares of exotic forests located in the Pureora area. 2558 hectares of exotic forest are excluded from the sale. The Government examined all the issues regarding conservation and Maori claims prior to deciding which assets should be included in the sale. The land under the forest is protected under the Crown Forest Assets Act 1989 in respect of Maori claims. The 2558 hectares were withheld from the sale as the most important for the protection of the Kokako and possible restoration to indigenous forest. The Government is examining the future management options available for these areas and the cost of each option. I am not aware of any formal undertaking by the previous government to transfer the ownership of the exotic forest to the Native Forest Restoration Trust. In contrast, the previous Government offered all of the Pureora forest in NZ Timberlands control, for sale in the last forest sale round.

**26 Nov, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 521, pp5571-5576**  
**Orakei Bill** (Report of Maori Affairs Committee on Bill)

See *Transcripts of Debates*, p181

*I Peters* gives report of Maori Affairs Committee on Bill. Notes that 1978 settlement was to be full and final and that the current settlement also purports to be full and final. Referring to one particular matter, expresses concern that the Bill may not result in full and final settlement –

My personal view is that we have not heard the last of a claim by the Ngati Whatua of Orakei. As one goes back through the history of Parliament one would be staggered to learn that the flooding on the Original marae was not caused by Maori or by nature but was a direct Intervention of Parliament through legislation. I refer to the Placement of the water line, which caused the flooding that led Eventually to the burning down of the old homes on the waterfront.

It would have been my wish, if the committee had had more time, to extend the powers of the Waitangi Tribunal and for that land also to be part of this claim and be given back. Today I share with the House my concern that in placing the Bill before the House---and, no doubt, into legislation---we have not concluded a final and complete settlement for the Ngati Whatua of Orakei. We place the Bill before the House with the support of the Maori Affairs Committee.

**28 Nov, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 521, pp5752-5757**  
**Orakei Bill** (Second Reading)

See *Transcripts of Debates*, p188

***D Kidd (Min of Maori Affairs)*** refers to Tribunal's Orakei report saying it is "sobering reading" and a "sad tale". States –

Having considered the claim filed in 1984 and reformulated in 1986 after the 1985 amendment to the Treaty of Waitangi Act 1975, which allowed claims to the tribunal to extend back to 1840, the tribunal made a series of recommendations, the overall effect of which was to provide for what the tribunal described as "the proper restoration of the tribe's status in Auckland's affairs.". The Waitangi Tribunal stated that, while the Crown's action in 1978 was consistent with the principles of the Treaty of Waitangi, it was inconsistent with the treaty that reparation was not provided in respect of a wider range of grievances, and was limited to two blocks of land taken under the Public Works Act.

It was clear, in the light of those recommendations, that the 1978 Act could not be considered to be an adequate solution to the Orakei block situation. Another settlement with Ngati Whatua was needed in order to provide an appropriate resolution for both Ngati Whatua and the Crown. The Bill considers those matters in the recommendations that need legislation in order to give them effect.

***Dr Gregory*** on previous settlement, states –

For the edification of the House, I do not think that the present Bill deals solely with the lands that were covered by the previous legislation. I know that, during previous discussions on the matter, the member for Tamaki continued to argue that the previous National Government had resolved the issue of Orakei and of Ngati Whatua when he was Prime Minister, and that this Bill was unnecessary. The main distinctions between what he did in his time and issues that the previous Government attempted to resolve were that the extent of the land under discussion had increased and that the Waitangi Tribunal had made an impartial investigation and had come down with recommendations that the previous Government attempted to address in the Bill that was introduced in 1990. That Bill covered matters beyond the parameters of issues that the member for Tamaki as Prime Minister had seen fit to resolve with the Ngati Whatua people. This Bill covers a much greater area than the legislation that was enacted under the previous National Government during the prime ministership of the member for Tamaki. I think that that is an important distinction. So this Bill addresses issues that relate to the Waitangi Tribunal. It covers a much larger area of land, and it has attempted to bring together the Ngati Whatua people, the nui tonu or

wider family of Ngati Whatua, and to involve them in that important land area and that important marae.

**Joy McLauchlan** after referring to whakapapa issues –

This problem resulted in a great deal of indecision, and in some ways made me, as a non-Maori on the committee, realise the difficulties that an institution such as Parliament has in trying to settle claims that do not necessarily have a European background or history. It is important that when we decide how much influence the Waitangi Tribunal should have on legislation in the House we realise that the tribunal always looks to Maori history. I think that we have to consider that and to say that, while the Orakei Bill is based on the recommendations of the Waitangi Tribunal, in this instance that recommendation is right and proper. I am pleased to be part of a Government that is working extremely hard and is very serious about resolving issues connected with longstanding land alienation grievances.

**3 Dec, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 521, pp5772-5785**  
**Orakei Bill** (Second Reading cont.)

See *Transcripts of Debates*, p195

**Ian Peters** states that earlier settlement was not sufficient for a true and lasting settlement. Outlines the history of the Ngati Whatua grievances. Referring to foreshore land –

...in my view the land on the foreshore that was taken by the Crown and that is now under the joint control of the Auckland City Council for parks and reserves and of the Ngati Whatua and others should have been included in the settlement by the Waitangi Tribunal. Having stayed at Barrycourt motel, and having seen the land afresh, I say to the House and to the country that I can see no reason that the Auckland City Council should have a vested right in that land that was not ever the council's, but that belonged to Ngati Whatua. It is my view that this legislation could have been a full and complete settlement if that land had been included.

I say to the House today that there now remains a question mark because I have no doubt that at some future date a member of the Ngati Whatua or some other Maori group will put in a claim for land that I believe is rightfully theirs. I say to the House today that if Ngati Whatua were my tupuna I should not rest until the land, now a Magnificent park area that was lost to Ngati Whatua through Legislation and European involvement, was returned.

**P Tapsell** states –

I want to pay my respects to my colleague the member for Western Maori, who introduced the Bill. His introduction of the Bill followed on from the report of the Waitangi Tribunal. I want to say again, and to make clear, that the earlier Bill--the 1978 Bill introduced by the member for Tamaki---was introduced after proper negotiations, or some negotiations at least, with members of Ngati Whatua. I am willing to believe that the member for Tamaki introduced that Bill with the best intention in the world. I understand that when the second Bill was proposed he had certain misgivings---quite legitimate misgivings, I think---based on the fact that we could not go on for

ever having claims made on a single piece of land, making a settlement, reviewing it, making a new settlement, reviewing that, and so on. I accept that.

However, if the exercise shows anything, it makes it very clear that in investigations of supposed past injustices, particularly when they relate to land, it is essential that there be some third, disinterested party to carry out the initial investigation. It was a mistake, it is a mistake, and it will always be a mistake for the Government to negotiate directly with those persons who are said to be the representatives of Maori people. It will always be desirable to have some third, disinterested party make a recommendation that the Government can consider.

It is a matter of record that the Waitangi Tribunal has carried out that function with absolute integrity. Indeed, I think that the tribunal has come to be seen as unique and as one of the more important judicial bodies in this country. On this occasion the tribunal carried out a full investigation---every interested person had a say---and it came down with recommendations. The Government has seen fit to accede to those recommendations, and I commend it on its actions.

Also refers to uniqueness of NZ situation –

In due course the Bill may come to be recognised as one of the more important pieces of legislation relating to so-called Maori claims. I make the point that we are concerned about the claims of Ngati Whatua and other Maori groups---not out of the simple goodness of our hearts as parliamentarians, but because the position in New Zealand as distinct from the position in Australia, Canada, or any other British colony is unique. At the time that the Ngati Whatua were dispossessed of their lands they were British citizens. Quite unlike the position in Australia, Canada, or anywhere else, the position in New Zealand is unique in that the so-called Maori wars that led to this problem were, in fact, civil wars between British citizens. At the time, the Maori were British citizens; they were entitled to the protection of the law. In the event, they were denied that protection, and it is that fact that leads to the legitimacy of claims and the importance that those claims be fully investigated and justly dealt with.

**R Prebble** wants it recorded in Hansard that when the settlement was reached with Ngati Whatua (which he negotiated as the former Min of SOEs), that all that should have been involved on Ngati Whatua side were involved (unlike 1978 settlement) and that they unequivocally agreed that it should be a full and final settlement.

**4 Dec, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 521, pp5870-5876**  
**Orakei Bill** (Third Reading)

See *Transcripts of Debates*, p210

**R Muldoon** defends 1978 settlement saying that the current Bill solves nothing –

The Bill solves nothing. A good deal of what was said during the Committee stage was inaccurate---for example, the suggestion that the settlement and the legislation of 1978 took nothing into account before 1975, which at that time was the date on which disputes going

to the Waitangi Tribunal were cut off. The settlement of 1977, which was enshrined in the law of 1978, covered the whole of the disputes of the Ngati Whatua at that time, going back as far as the elders wished to go. It is also significant that there was some reference to Professor Kawharu, who had been a leading figure in making the latest claim to the Waitangi Tribunal. Hugh Kawharu is not a Ngati Whatua of Orakei. He comes from the original northern Ngati Whatua of Rewiti in the Helensville area, but what is most important is that he was the negotiator on behalf of the elders in 1977. He was right in the thick of the negotiations at that time.

When the Waitangi Tribunal legislation was amended by the Labour Government he obviously saw a means of having another go and getting a bit more. He succeeded, but that was not a good omen for the future, because no sooner had the Waitangi Tribunal's recommendation been made and accepted by the Labour Government than another claim was put in on behalf of the Ngati Whatua for the whole of the land on which Auckland is situated, plus the land on both coasts north to the Kaipara. If the little bit of land in Orakei is worth \$3 million then members should take a moment to work out what the whole of the land involved in the next claim is worth and they should then ask themselves whether anything has been solved with the passage of this Bill.

*K Wetere* on the settlement –

More than that, the Bill lays the basis for future claims. The Waitangi Tribunal is not a judicial body. It was not established to be such a body, but a body that was impartial and outside judicial considerations and one to which anybody could go to make submissions. The tribunal does not escape claims, like the claim that is the subject of the Bill, made as far back as 1868, and all of those claims have given rise to the three royal commissions. The last commission in 1928 led to the establishment of the 12 Maori trust boards as we understand them under the Maori Trust Boards Act 1955. The trust board referred to in the Bill joins all of those trust boards, which came out of grievances with the Crown---not by private individuals but by misdemeanours of the Crown itself. This one is no different, so was treated in such a manner.

**4 Dec, Hansard Question Supplement Vol 12, p3718**  
**Written Question 1 - Waitangi Tribunal**

TONY RYALL (East Cape) to the Minister of Justice: Who are the current members of the Waitangi Tribunal, and what is its budget, by breakdown for each year since its formation?

ANSWER :

Hon. D. A. M. GRAHAM (Minister of Justice) replied: The current members of the Waitangi Tribunal are: Chief Judge Edward Durie (Chairperson); Deputy Chief Judge Ashley McHugh, MBE; The Right Reverend Manuhuia Bennett, ONZ, CMG; Mrs Mary Boyd; Sir Monita Delamere, KBE; Dr Ngapare Hopa; Professor Sir Hugh Kawharu; Mr John Kneebone, CMG; Mrs Emarina Manuel, MBE; MBE; Ms Joanne Morris; Professor Gordon Orr; Dr Erihana Ryan; Professor Keith Sorrenson;



Associate Professor Dr Evelyn Stokes; Mrs Georgina Te Heuheu; Mr William MacDonald Taylor, QSM; Mr Peter Tapski, CBE; Mr Bill Wilson.

Until April 1988, the Waitangi Tribunal Division formed part of Tribunals Division of the Department of Justice. From that date the division became an entity with its own financial programme. The budget figures, exclusive of GST, are: 1988-89, \$2.078m (includes transitional period); 1989-90, \$2.613m; 1990-91, \$2.855m; 1991-92, \$2.942m.

**5 Dec, Hansard Question Supplement Vol 12, p3749**

**Written Question 66 - Education Institution Assets---Land Claimants**

Hon. PETER DUNNE (Ohariu) to the Minister of Education: Has the Ministry of Education taken any steps to inform claimants of land that is subject to a Waitangi Tribunal claim that it wishes not to transfer the assets to the appropriate tertiary institution; if so, what steps has the ministry taken, and what agreement or outcomes have been reached with claimants as a result?

ANSWER :

Hon. Dr LOCKWOOD SMITH (Minister of Education) replied: No decision has been made about land not transferring to appropriate tertiary institutions. The transfer of tertiary assets has been deferred until details of the capital charging regime have been clarified and put in place.

**5 Dec, Hansard Question Supplement Vol 12, p3749**

**Written Question 69 - Education Institutions---Asset Transfer**

Hon. PETER DUNNE (Ohariu) to the Minister of Education: Further to the replies to questions for written answer Nos. 23 and 24, reply due 27 November 1991, what property assets, if any, that the Ministry of Education is proposing not be transferred to polytechs or colleges of education are subject to a claim to the Waitangi Tribunal, and which of these assets, if any, does the ministry intend to put up for sale?

ANSWER :

Hon. Dr LOCKWOOD SMITH (Minister of Education) replied: No decision has been made about land not transferring to polytechnics or colleges of education.

## **1992**

**3 Mar, Hansard Question Supplement Vol 13, p6058**

**Written Question 45 - Kaimaumu Wetland---Land Management**

JOHN BLINCOE (Nelson) to the Minister for State Owned Enterprises: In respect of the Waitangi Tribunal's recommendation to the Ministry of Maori Affairs of 30 October relating to the Muriwhenua land claim, what steps, if any, is he taking to prevent mining or major developments or

other adverse use of the 1100 hectare block of Kaimaumu wetland formerly held by Landcorp, pending the completion of the Tribunal's current inquiry into the Muriwhenua claim?

ANSWER :

Hon. MAURICE McTIGUE (Minister for State Owned Enterprises) replied: The Government is still considering its response to the Waitangi Tribunal's recommendations.

**2 April, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 523, p7519**

**Questions for Oral Answers – State-Owned Enterprises Act – Treaty of Waitangi**

State-Owned Enterprises Act---Treaty of Waitangi

9. Hon. Mrs T. W. M. TIRIKATENE-SULLIVAN (Southern Maori) to the Minister for State-owned Enterprises: Does the Government intend to repeal provisions of the State-Owned Enterprises Act 1986 relating to the Treaty of Waitangi?

Hon. MAURICE McTIGUE (Minister for State-owned Enterprises): The Government has made no plans to repeal provisions of the State-Owned Enterprises Act 1986 relating to the Treaty of Waitangi.

**4 June, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 525, p8537**

**Questions for Oral Answers – Treaty of Waitangi Act**

Treaty of Waitangi Act

3. HAMISH HANCOCK (Horowhenua) to the Minister of Maori Affairs: Has he received any reports indicating public support for an amendment to the Treaty of Waitangi Act to give greater protection to private landowners?

Hon. DOUG KIDD (Minister of Maori Affairs): Yes, I have seen the comments made by both Dame Whina Cooper and Sir Graham Latimer. Both myself and the Minister of Justice have commented publicly on this matter. A small amendment will be considered to make it clear that the tribunal is not to make recommendations proposing that the Crown should acquire privately owned land.

Hamish Hancock: Does the Minister expect to receive any reports that indicate the level of support that he will get for such an amendment?

Hon. DOUG KIDD: I intend to seek the support of the whole House for such an amendment, encouraged by what I understood was the clear and firm policy of the previous Labour Government---that it, likewise, would not tolerate any disturbance of private owners in respect of their land. I believe that that will strike a chord right throughout the House.

Dr Bruce Gregory: In the Minister's substantive answer were the views of the two individuals named their own personal views, or were they the views of the organisations those individuals represent?

Hon. DOUG KIDD: I think that it would be fair to say that these two strong personalities are not backward in expressing their own views. However, they do carry a certain weight.

**9 Jun, Hansard Question Supplement Vol 14, p4745**

**Written Question 6 - Railway Property Sales, West Coast---Waitangi Tribunal**

Hon. RICHARD PREBBLE (Auckland Central) to the Minister of Railways: Are sales of West Coast railway properties being held up by Maori claims under the Waitangi Tribunal; if so, what action is he taking?

ANSWER :

Hon. MAURICE McTIGUE (Minister of Railways) replied: West Coast railway properties which are surplus to requirements are subject to a claim by Ngai Tahu. Negotiations are currently taking place between a Crown Task Force and Ngai Tahu and resolution is expected shortly.

**10 Jun, Hansard Question Supplement Vol 14, p4770**  
**Written Question 96 - Waitangi Tribunal---Expenditure**

Mr ROSS MEURANT (Hobson) to the Minister of Justice: What was the total cost of expenditure of the Waitangi Tribunal during 1991?

ANSWER :

Hon. D. A. M. GRAHAM (Minister of Justice) replied: The total expenditure of the Waitangi Tribunal Division in 1991 (calendar year) was \$2,391,752 (excluding GST). This is the total personnel and operating costs of providing administrative services, making payments for commissioned research and legal services, meeting members' fees and travel costs etc. It does not include the non cash items of depreciation and capital changes which total about \$70,000.

**17 June, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 525, p8862**  
**Questions for Oral Answers – Treaty of Waitangi – Settlements and Resolutions**

Treaty of Waitangi---Settlements and Resolutions

4. IAN PETERS (Tongariro), on behalf of GRANT THOMAS (Hamilton West), to the Minister of Justice: Has he received any formal request from the National Maori Congress for an investigation into all aspects of Treaty of Waitangi settlements and resolutions?

Hon. D. A. M. GRAHAM (Minister of Justice): No, I have not.

Ian Peters: Has the Minister been working with the National Maori Congress on aspects of Treaty of Waitangi settlements and resolutions?

Hon. D. A. M. GRAHAM: Yes. In the past 6 months there has been close contact with the National Maori Congress on aspects of Treaty of Waitangi settlements. I am pleased to be able to advise the House that there is apparent good will between the Crown and the congress, representing a number of iwi, and major progress has been made.

**11 Aug, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 528, p10397**  
**Questions for Oral Answers – Ngai Tahu Fisheries Claim**

Ngai Tahu Fisheries Claim

1. JEFF GRANT (Awarua) to the Prime Minister: Will the Government be implementing in full the recommendations of the Waitangi Tribunal on the Ngai Tahu fisheries claim?

Rt. Hon. J. B. BOLGER (Prime Minister): No. It is inconceivable

that the total fish resources off much of the South Island would be vested in such a way. The tribunal's recommendation is only that.

Jeff Grant: Can the recommendation of the Waitangi Tribunal assist in resolving the fisheries claim?

Rt. Hon. J. B. BOLGER: The finding could frustrate settlement if it is seen to be too extreme and therefore that makes it more difficult to reach a fair settlement. No settlement can ignore the development of New Zealand over the past 150 years--we are in 1992, not 1840. The tribunal itself has stated that any settlement would require compromise and would not be based solely on the issues, but on other circumstances such as public conscience and the nation's ability to meet the costs.

Graham Kelly: How will the recent decision by the Director-General of Agriculture and Fisheries to allow foreign control of the quota of Sealord Products Ltd--which is based substantially in the South Island--affect the Ngai Tahu settlement?

Mr SPEAKER: Order!

Rt. Hon. J. B. BOLGER: I do not know of any connection, either.

Mr SPEAKER: Yes; I will allow the honourable member to rephrase his question, but I think that it was far away from the original question.

Graham Kelly: I raise a point of order, Mr Speaker. Given that the issue is the quantity of fish that may be available--in this case for the settlement--and, given that a decision has been made to sell part of that quota to foreigners, I submit that that issue is relevant.

Mr SPEAKER: OK; the original question brought in comments that the Director-General of Agriculture and Fisheries had made a decision. I am prepared to allow the member to rephrase his question.

Graham Kelly: What implications does the Prime Minister believe will occur as a result of the recent decision to sell New Zealand fishing quota to foreigners, as it affects the Ngai Tahu settlement?

Rt. Hon. J. B. BOLGER: The only implication that I can see would be if the Government were of a mind to buy all of the fishing quota that came on the market to give to the Ngai Tahu. I do not think that anyone suggested that. The case that the honourable member refers to relates to legislation passed by the previous Government that was tested recently in court and that cleared the company for sale. As far as I understand it, that is the position. The only inference that I can take from the honourable member's question is that he would expect the Crown to buy all fishing companies and fishing quota that come on the market. That is not the Government's intention.

## **15 Sept, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 529, p10835**

### **Questions for Oral Answers – Maori Fisheries Claim Settlement**

#### Maori Fisheries Claim Settlements

5. HAMISH HANCOCK (Horowhenua) to the Minister of Justice: Is the proposed settlement of Maori fisheries claims under the Treaty of Waitangi to be full and final?

Hon. D. A. M. GRAHAM (Minister of Justice): The settlement, if perfected, will be a full and final settlement of any claim by Maori as Maori to all commercial fishing.

Hamish Hancock: Is there any proposal to amend article 2 of the Treaty of Waitangi?

Hon. D. A. M. GRAHAM: No. There is no proposal whatever to amend article 2.

Hon. David Caygill: In practice, how does the Government propose to bind future generations not to make future claims in relation to commercial fishing?

Hon. D. A. M. GRAHAM: It will do so by taking all possible legislative and other procedures to ensure that that possibility is frustrated.

**22 Sept, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 529, pp11073-11074**  
**Question for Oral Answer – Maori Land Claims**

Maori Land Claims

6. GRAEME REEVES (Miramar) to the Minister of Lands: What resources of his department are being used to assist in the investigation and resolution of Maori land claims?

Hon. DENIS MARSHALL (Minister of Conservation), on behalf of the Minister of Lands: The Department of Survey and Land Information provides technical advice, mapping and graphic products and services, land status investigation, and historical land claim research, in the investigation and consideration of land claims. Towards the resolution of those claims, the department also provides advice on land tenure, implication for Crown lands and property, and identification of potential compensation.

Graeme Reeves: To whom is this information made available?

Hon. DENIS MARSHALL: The products, services, and advice provided by the department are made available to the Crown, the Waitangi Tribunal, the Crown Law Office, other Government agencies working towards resolving outstanding grievances, and Maori land claimants. The department's neutrality and reliability, coupled with the integrity of the information, has enabled it to assist three different groups successfully.

Dr Bruce Gregory: What other resources and what other departments, apart from the ones already mentioned, will be utilised towards the resolution of Maori land claims?

Hon. DENIS MARSHALL: If the member is asking me what other resources are available from other departments, I am not authorised to answer that question.

**24 Sept, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 529, pp11203-11204**  
**Question for Oral Answer – Maori Fishing Agreement**

Maori Fishing Agreement

2. JEFF GRANT (Awarua) to the Minister of Justice: Does the historic fishing agreement that was signed last night bring about a full and final settlement of Maori claims for commercial fishing in New Zealand?

Hon. D. A. M. GRAHAM (Minister of Justice): Yes. The Deed of Settlement that was signed last night is a complete discharge of the Crown's obligations to Maori in relation to commercial fishing, past, present, and future.

Jeff Grant: Will Maori who have not signed the Deed of Settlement benefit from the agreement that has been reached between the Crown and Maori interests?

Hon. D. A. M. GRAHAM: Yes, Maori who for whatever reason have elected not to sign are still entitled to receive benefits under the deed.

Hon. K. T. Wetere: What steps does the Minister intend to take to ensure that those Maori who did not sign will have the opportunity to sign before the deal is finalised?

Hon. D. A. M. GRAHAM: Any Maori who want to sign on behalf of an iwi are free to sign at any time in the future.

Dr Bruce Gregory: How many Maori have signed the agreement so far?

Hon. D. A. M. GRAHAM: I am unable to advise of the exact number. That is being worked on by Crown counsel at the moment.

**24 Sept, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 529, pp11214-11235**  
**Debate - Urgent Public Matter – Maori Fishing Agreement**

Debate held at request of K Wetere.

*M Moore* states –

I say, too, that the Waitangi Tribunal has to be more culturally sensitive to those people who are not Maori. It is fear that we have to worry about; even if the fear is not real and true, people still can be frightened.

*Dr Gregory* states that “Waitangi Tribunal also had some influence on the nature of the shares of Sealord products”.

Debate mostly focusses on Fisheries Settlement, very little about Tribunal.

**30 Sept, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 529, pp11346-11347**  
**Question for Oral Answer – Maori Fisheries Settlement – Moriori Objections**

Maori Fisheries Settlement--Moriori Objections

4. PETER HILT (Glenfield) to the Minister of Justice: What reports, if any, has he received on Moriori objections to the Maori fisheries settlement agreed to last week?

Hon. D. A. M. GRAHAM (Minister of Justice): I am aware that, although Moriori perceive the Sealord Products bid as having considerable merit, they are concerned to ensure that their interests are protected. They have been granted an urgent hearing by the Waitangi Tribunal, and therefore it would be inappropriate to comment further at this stage other than to confirm that Moriori can benefit from the agreement that has been reached.

Peter Hilt: Does the agreement specify which tribes will benefit and in what proportions?

Hon. D. A. M. GRAHAM: The agreement does not specify those matters in any detail, and as at today the position of the Moriori is no different from that of any other tribe in terms of the share of the benefits of the deal that they would receive.

Dr Bruce Gregory: What is the basis of the Moriori objection at the moment?

Hon. D. A. M. GRAHAM: I am unsure of exactly what their objection is, other than I think that they want to know in advance what they will get out of the deal before they agree to it. No other tribe yet knows what it will get out of it, and that is a matter for Maori people to sort out amongst themselves.

**3 Dec, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 532, pp12816-12846**

**Treaty of Waitangi (Fisheries Claim) Settlement Bill** (Introduction and First Reading)

Mostly deals with details of settlement, but some mention of Tribunal report on settlement –

*D Graham (Min of Justice)* in reply to an Opposition member's comment that the Bill flies in the face of the Tribunal's recommendations, states –

I am not worried all the time about what the tribunal recommends. It will be apparent from the Bill that the Government does not slavishly adhere to every recommendation of the Waitangi Tribunal, and that this is one time when the Government decided not to do that.

**3 Dec, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 532, pp12927-12979**

**Treaty of Waitangi (Fisheries Claim) Settlement Bill** (Second Reading)

Again, no more than cursory reference to the Tribunal, specifically to the Ngai Tahu report, and the fact that it would no longer have jurisdiction concerning commercial fisheries. Some reference to Tribunal's report on settlement.

*D Graham (Min of Justice)* in response to claims that Maori negotiators had no mandate, quotes Tribunal report –

The Waitangi Tribunal put it this way, and I quote: ``A full record of the hui is contained in a 260-page report. A copy of the report was made available to Crown Ministers, and, as we understand it, it was on the basis of this that the Crown considered that there was sufficient mandate to proceed to the conclusion of a formal deed. We have read that report ourselves and have gained the same impression. The report is commendable for its thoroughness and detail. It conveyed to us the impression that there was indeed a mandate for the settlement, provided, however, that the treaty itself was not compromised.".

Notes that Tribunal disagreed with removal of s88(2) of Fisheries Act –

I note that the tribunal considered it to be undesirable to oust the jurisdiction of the courts in that way. Indeed, it went further and said that that was in breach of treaty principles. With respect, I disagree. The tribunal fails to appreciate the need for the Government to take public opinion with it if progress is to be made in this difficult area. Further, if it is in breach of the treaty to repeal section 88(2) of the Fisheries Act, removing these treaty rights from domestic law, equally it could be argued that the Crown is in breach of the treaty for not adopting other treaty rights into domestic law.

For example, most people would accept that the Maori language is a taonga, but there is no statutory recognition of that. I have never heard such a proposition advanced. While the courts are the appropriate forum to determine whether rights exist, it is often difficult for them to determine the actual extent of those rights--for example, the percentage of quota that Maori should receive, which clearly is more of a political matter than a judicial one.

**Sonja Davies** states that Opposition believes that Maori not signing the settlement should still be able to bring commercial fishing claims to the Tribunal. Says current Bill in flagrant disregard for Tribunal's report.

**W Peters** on Ngai Tahu fisheries claim –

I think that it is unfortunate that the Waitangi Tribunal ruling on the Ngai Tahu case occurred so recently in regard to this particular Bill. To an extent it has clouded the issue. However, it is worth noting these points. The tribunal's recommendation is just that---a recommendation. It has not been accepted by the Government; it is not the law of the land.

It is worth noting, too, that so far, although numerous applications have been before the tribunal---other tribes have made similar applications---it has heard only those of Muriwhenua and Ngai Tahu. Many tribes with applications before the tribunal will not be heard.

It is worth noting that the tribunal took the extraordinary step of bringing down what I suspect was a supplementary report on the Ngai Tahu case. It is called the Fisheries Settlement Claim. In fact, it is a clarification of what the tribunal stated in the report on the Ngai Tahu claim. The following points are made very clearly.

First, the points very clearly are at variance with the statements of the chairman of the Ngai Tahu Tribal Trust Board. They make very clear that the dissemination of such benefits as will arise from the commission ``cannot be determined on treaty grounds alone"---those are the actual words. They make clear that the convenient, but rather fanciful, concept of mana moana may be quite unreal. They make very clear that Ngai Tahu have no greater claim to fisheries outside of the 12-mile limit than any other Maori in this country, and that the implication that was taken from the tribunal's first report was quite false and not the view of the tribunal. That needs to be kept in mind.

**D Graham (Min of Justice)** says there are two reasons why Bill is not going to Select Committee – (1) the Crown has already entered the agreement, and so it would be pointless to call for submissions when the Crown does not intend to alter the terms; and (2) the agreement has already been the subject of extensive consultation with Maori on marae across NZ, and although there was not 100% support, the Waitangi Tribunal recognised that there was a mandate for the agreement.

**J Anderton** refers to Tribunal report on the settlement –

The Waitangi Tribunal, in the conclusion of a remarkably cogent report on the Bill, stated: ``It would be churlish not to consider that in seeking to provide for Maori interests in commercial fisheries the Crown has done well in our time. The resolve, the enterprise, and the spirit are all there, but the spirit became lost in the small print, in our view, leading to many of the complaints we have described. It was a salient reminder of what has been said before---that treaty matters are more for statesmen than lawyers.".

It went on to say: ``Most especially it needs to be appreciated that any settlement of this nature has two essential goals; not just a pay-off for the past, but also to buy into the future. The treaty, it must be understood, is primarily concerned with the latter. It is not extinguishment of rights that is essential, but the affirmation of them. Somehow the deed does not capture this, apart from the



preamble, and Maori anxieties were understandable."

The Waitangi Tribunal is at least giving credit where credit is due, and it is the totality of the Bill that we have to examine.

Later notes that Tribunal found that in some important respects, the settlement was not in conformity with the Treaty.

*G Kelly* refers to a recommendation of the Tribunal on "full and final point" – Tribunal recommended that the matter of commercial fisheries be looked at again in 25 years, but the Government rejected that suggestion.

*Tirikatene-Sullivan* says that Government is seeking to extinguish right of Maori to go to Courts and to Tribunal, and that these are constitutional rights. Gives notice of her proposal to move amendments to those aspects of the Bill. This point was particularly important to non-signatories to the agreement who nevertheless were having their rights of recourse removed. Also refers to already pending Tribunal claims, and how they are now precluded by the Bill.

**8 Dec, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 532, pp13032-13060**

**Treaty of Waitangi (Fisheries Claim) Settlement Bill** (Third Reading)

*Dr Gregory* raises a point of order, seeking leave that pursuant to s8A(2) of Treaty of Waitangi Act, the Bill be referred to the Waitangi Tribunal. Objection being raised, the motion was not carried.

*Tirikatene-Sullivan* refers to amendments she proposed at committee stage removing clauses from the Bill which would extinguish Treaty rights and rights of recourse to Courts and Tribunal. [Note that these proposed amendments are not recorded in Hansard at the Committee stage of the Bill, see Hansard Vol 532, pp13016-13032]. Quotes from Court of Appeal judgment –

I also referred to what the Court of Appeal said: ``The tribunal said that it is not the extinguishment of Waitangi rights that is essential, it is their affirmation. As they said, we believe that those who have not signed the Sealord deal should be free to put their claims before the Waitangi Tribunal." That was another amendment from the Opposition.

**8 Dec, Hansard Question Supplement Vol 15, p6058**

**Written Question 964 - Sealord Fisheries Deal---Signatories as Authorities of Iwi**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Fisheries: Of those Maori who have signed their names to the Sealord fishery deal, can he state whether they signed on behalf of their iwi; if so, how was this authority indicated?

ANSWER :

Hon DOUG KIDD (Minister of Fisheries) replied: There is no comprehensive list of iwi/tribes in New Zealand. Some of the signatories to the Sealord's settlement signed as individuals and some on behalf of their tribes. It is not for the Crown to question the credentials or status of those who signed. It should also be noted that the signing of the Deed of Settlement was preceded by a broad series of consultative hui amongst iwi. If the honourable

member wishes, I will arrange for him to be able to peruse a copy of the signed Deed, and the extensive Minutes of those hui. The Waitangi Tribunal in their findings on the settlement found that there was sufficient support from the hui and the signing of the Deed for the Crown and the Maori fisheries negotiators to consider that a mandate had been given for the agreement to be reached.

**8 Dec, Hansard Question Supplement Vol 15, p6058**  
**Written Question 965 - Sealord Fisheries Deal---Signatories as Authorities of Iwi**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Fisheries: Can he confirm how many signatories to the Sealord fishery deal signed on the authority of their iwi?

ANSWER :

Hon DOUG KIDD (Minister of Fisheries) replied: I cannot confirm how many signatories signed on behalf of their iwi. Some of the signatories to the Sealord's settlement signed as individuals and some on behalf of their tribes. It is not for the Crown to question the credentials or status of those who signed. The Waitangi Tribunal in their findings on the settlement found that there was sufficient support from hui that preceded the signing and from iwi present when the Deed was signed for the Crown and the Maori fisheries negotiators to consider that a mandate had been given for the agreement to be reached.

## 1993

**23 Feb, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 533, pp13377-13394**  
**Treaty of Waitangi Amendment Bill** (Introduction and First Reading)

See *Transcripts of Debates*, p218

*D Kidd (Min of Maori Affairs/Fisheries)* introduces Bill, which would prevent the Tribunal from making recommendations that the Crown acquire the ownership of privately-owned land. Says there is no question of "tampering with the general role and philosophy of the Tribunal". Refers to Te Roroa report (April 1992) which first recommended the acquisition of private land.

If the tribunal considers a claim to be well founded, then a recommendation to the Crown that certain Crown land be applied to redress the claim is easily explainable in terms of the treaty relationship, because the Crown has control over Crown-owned land.

However, a recommendation that the Crown take certain action in relation to privately owned land is quite another thing. Private citizens also have rights. Indeed, they hold their tenure from the Crown, and they are entitled to look to the Crown to protect those rights and that tenure. A fundamental principle of the treaty claims settlement process that is accepted on all fronts is that one injustice cannot be addressed by creating another.

The Waitangi Tribunal must be commended for the excellent work it undertakes in relation to claims. It provides a forum and a focal point for Maori to air their grievances, many of which go back to the

very foundations of our nation. The tribunal also increases the level of public awareness of the background of the claims that are being heard. In many ways the tribunal is writing the real history of our country.

I can confirm the commitment of the Government to the tribunal process for receiving, considering, and investigating claims, and for bringing them in a coherent form to the Government for Government action to resolve. It must be remembered that this Government has made a strong commitment in regard to the treaty, as the quite startling achievements of the Government in settling claims since it came into office make evident.

The introduction of this tiny amendment will not adversely impact on the ability of the Waitangi Tribunal to operate as it does at present. Indeed, the amendment is necessary to protect the status of the tribunal and its acceptability to the people of New Zealand as a whole. [...]

I want to add one or two additional comments. I mentioned the importance of this amendment to the integrity of the treaty claims settlement process. I believe that the outcry following the Te Roroa report was such---and the fears raised were of such genuine concern---that the question of the treaty settlement process itself might well have been at risk. That would serve no one's interests---not those of Maori, the Government, or the people of New Zealand as a whole.

The amendment---and I think that I can submit it in advance as being in the running for the smallest Bill of the year in terms of number of words---will make absolutely plain to all New Zealanders, whether they own land, whether they lend money on it, or whatever their relation might be to it, that private land is sacrosanct and totally excluded from the treaty claims and settlement process.

All New Zealanders can get on with their business, be it in relation to their land or otherwise, in total confidence that that will be the law, and that they will not have to rely on what has always been the clear and unequivocal policy of the National Party, which is that private land is not available for treaty settlements. I understand that that policy had its exact counterpart amongst Labour Party policy when it was in Government. The policy of the parties, clearly expressed many times, will be written into the law, and I hope that the Bill will be passed into law speedily.

***K Wetere*** says much of outcry over Te Roroa report is by Government. Questions need for the Bill, pointing out that Tribunal can only make recommendations on such land.

***Ian Peters*** states –

The claim---and this we must remember---to the Waitangi Tribunal, and its eventual settlement, is a matter between the Crown and Maori. The Waitangi Tribunal acts, if one likes, as the middle person in hearing a claim, and it presents its findings to the Crown. While I have already commended the Waitangi Tribunal for the great work it has done, the Bill confines its ability to make recommendations. I think that the Bill will clear up many of the misconceptions---some real, but most perceived to be real.

Referring to the Te Roroa case, notes that the claimants do have a legitimate right to the land in question, but that the title has subsequently been mixed with private owners. States that one reason behind the Bill is commercial certainty.

**Dr Gregory** refers to relationship of Maori with land, and says that he believes the Tribunal made a proper recommendation in the Te Roroa report.

**John Carter** says one wrong should not be rectified by the perpetuation of another. Says the nation needs an assurance that private land is secure. Says the Bill is taking away an obstacle to the settling of past grievances, by assuaging fears of public and securing public support for the process.

**P Tapsell** points out that Bill prevents Tribunal from making a perfectly legitimate recommendation, namely that the Government attempt to acquire land for settlement of a claim from a willing seller.

**Tirikatene-Sullivan** says it is not necessary to have legislation to allay public fears – education is enough for that. Says fears are based on misinformation. Also refers to lowering of land values for land subject to a claim before the Tribunal. Concludes –

If the tribunal's recommendatory powers are limited that could inhibit its work in identifying where the Crown has committed injustice, and that would be a very sad thing because of all that has been achieved by the Waitangi Tribunal. It would throw away the major advances made by the Labour Government to address vital issues of justice for Maori. It will also incite unnecessary misunderstanding and conflict, and the Government should not be provocative and should concentrate on being constructive.

**D Graham (Min of Justice)** refers to devaluation of land subject to claim.

**D Caygill** says that Maori still able to lodge claim to private land, Government still able to negotiate with voluntary sellers, but Tribunal will be precluded from making such recommendations. Says this is the problem with the Bill. Refers to Tribunal's recommendation that no expense be spared in attempting to right the wrong. Reiterates that the Crown does not have the power to acquire land compulsorily and that the Tribunal did not ask it to.

**D Kidd (Min of Maori Affairs/Fisheries)** states –

In response to the comments made by the member for St. Albans about my colleague the Minister of Justice, who was in charge of negotiations, I ask him to consider this: the appearance becomes the reality. After the Te Roroa report was published---no matter what anybody said---the Government's policy was that private land would not be taken to satisfy treaty settlements.

The previous Labour Government's policy was to the same effect. The law that states the tribunal's recommendations are only that---recommendations and not binding. The appearance, the perception, became the reality in the minds.

As the Minister of Justice quite rightly said, the tribunal gave the Crown no room to negotiate by saying that it must implicitly and at any cost and without any ability to negotiate to acquire---

Hon. David Caygill: That doesn't have to be accepted.

Hon. DOUG KIDD: Let me tell the member about the way that the perception becomes the reality. Out there, the bank managers, the stock firms, and the land agents said: ``No lending, no loan renewals, no buyers. You put the place up for tender. No bidders." Solely because of that recommendation, it is not binding; it is worthless.

It has been said endlessly. I put it to the honourable member---[Interruption.] No, I have only 5 minutes, so the member will have to listen. I put it to the member that the judge of the Maori Land Court who chaired that tribunal is a lawyer and no fool. He must have known that the effect of that recommendation would be to destroy the value of that land and destroy the ability to negotiate and transact.

I put it to the House, knowing the responsibilities of my office, that that recommendation threatened the treaty process to its very foundations.

**22 Jun, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 536, pp16163-16174**  
**Treaty of Waitangi Amendment Bill** (Report of Maori Affairs Committee on Bill)

See *Transcripts of Debates*, p238

**I Peters** presents report of Maori Affairs Committee on Bill. Committee spent a fair amount of time on the meaning of "private" and "person", finally concluding that "private land" should be defined as land or an interest in land held by a person other than the Crown or a Crown entity within the meaning of the Public Finance Act. Says submissioners were very strong in their views and says he was personally very disappointed in the behaviour of some people before the committee.

**K Wetere** notes that one submissioner proposed an amendment to the Bill that also excluded conservation lands from being recommended for settlement.

**M Laws** says Tribunal's recommendatory powers have no impact on the Government in settlement – "All that they do is create a fresh grievance if those recommendations are not carried into appropriate resolution by the Government of the day. Notes that new definition of "private person" includes regional councils, territorial authorities, and "a whole host of companies that may have had land given to them, or acquired land by nefarious processes in the past", and that such lands could also not be the subject of recommendation. Says Bill introduced because of a perception that there is a problem, not because there was a problem in reality.

**D Kidd (Min of Maori Affairs)** in response to idea that there is only the perception of a problem, cites devaluation of land and a particular landowner that could not sell his farm because it was the subject of a Tribunal recommendation.

**David Caygill** says that removing the powers of recommendation will not change the fact that a grievance exists over private land, and that this will also translate into a devaluation of land.

**Tirikatene-Sullivan** reemphasises that Tribunal looks at breaches of Treaty by Crown, not by private parties, and that the Government is ultimately responsible for the settlement of Treaty claims.

**Ian Peters** concludes –

he Government is saying that we need to reassure New Zealanders. I understand the arguments of the member for Western Maori. I have to say that I had misgivings about the Bill---I still do have them. In my view, it does not affect the legislation of the House. Nevertheless, I am convinced that New Zealanders need reassuring that their private land is theirs, and that we will not right a wrong by creating another wrong. So long as I am a member of this Government I

will not be part of that.

**23 Jun, Hansard Question Supplement Vol 16, p7033**

**Written Question 3700**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Justice: What are the annual budgets for the past 3 years of the Waitangi Tribunal?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: The operating budgets for the Waitangi Tribunal Division were:

	\$
1990-91 .. .. .	2,855,000
1991-92 .. .. .	2,942,000
1992-93 .. .. .	2,546,000

The apparent reduction in Tribunal Division funding in 1992-93 arises mainly through the transfer (\$400,000) of responsibility for funding of legal aid assistance to the new Legal Services Board.

**23 Jun, Hansard Question Supplement Vol 16, p7034**

**Written Question 3702**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Justice: What is the procedure for staff appointments to the Waitangi Tribunal Division?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: All staff appointments to the Waitangi Tribunal Division are made in accordance with the provisions of the State Sector Act. For above basic grade appointments the department has a well established procedure which is applied to all such appointments. The positions are advertised, applicants are vetted and shortlisted, shortlisted applicants are interviewed using an appropriately constituted panel system and a suitable candidate selected for recommendation to the vacant position. The opportunity for informal consultation with the Tribunal occurs in preparing the documentation for the advertising of the position, and at the shortlisting stage.

**23 Jun, Hansard Question Supplement Vol 16, p7034**

**Written Question 3703**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Justice: Is it correct that staff are appointed to the Waitangi Tribunal Division by the Department of Justice without consultation with the Waitangi Tribunal itself, and is that the way that Waitangi Tribunal research staff are appointed?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: All staff

appointments to the Waitangi Tribunal Division, including research staff, are the responsibility of the Secretary for Justice in terms of the authority granted under the State Sector Act 1988. Appointments are usually made after informal consultation with the Tribunal. However, section 5A of the Treaty of Waitangi Act 1975, gives the Waitangi Tribunal the ability to commission research on its own account. The selection of individuals to fulfil these commissions is usually made by the Tribunal, although the division may be asked to assist by identifying an appropriate commissionee. It is noted that all research work whether carried out by staff or on commission is authorised by the Tribunal by way of a judicial direction.

**23 Jun, Hansard Question Supplement Vol 16, p7034**  
**Written Question 3704**

Dr BRUCE GREGORY (Northern Maori) to the Minister of Justice: What input, if any, does the Waitangi Tribunal itself have over the determination of its budget and outputs?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: The Tribunal, through an informal consultative process, is able to have some input into the determination of its budget and outputs. However, it should be borne in mind that the Tribunal itself reports to the Minister of Maori Affairs while its servicing is provided by the Minister of Justice. The Tribunal always has the ability to make representations to government on these matters and indeed has done so on several occasions.

**29 Jul, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 537, pp17040-17048**  
**Treaty of Waitangi Amendment Bill** (Second Reading)

See *Transcripts of Debates*, p251

***D Graham (Min of Justice on behalf of Min of Maori Affairs)*** states –

To put it simply, the Waitangi Tribunal will not have the jurisdiction to recommend that particular areas of privately owned land be acquired by the Crown for return to Maori claimants under the treaty settlement process. The Bill is consistent with the Treaty of Waitangi. It will not impinge upon the ability of Maori claimants to make claims to the tribunal in respect of injustices arising out of the Treaty of Waitangi.

At this point I want to congratulate the tribunal on the excellent work it is doing. The tribunal remains charged with the important role of hearing claims lodged by Maori who have been prejudicially affected by the acts, policies, or practices of the Crown that are, or have been, inconsistent with the principles of the treaty.

The tribunal's jurisdiction to hear claims that go back to 1840 also remains. The tribunal will continue to provide a forum for the airing of Maori grievances, some of which go back to the very foundation of our nation. When the tribunal determines that such a claim is well founded, the tribunal may still, under section 6(3) of the Treaty of Waitangi Act, recommend to the Crown that action be

taken to compensate Maori claimants.

The role that the tribunal has been charged with is, at times, a difficult and complex task. The Bill will ensure that the tribunal continues with the commendable work it has done thus far in assisting with the settlement process. The Bill will make that task easier in that the tribunal's recommendatory powers are made clearer. It will continue to ensure the acceptability of the tribunal to the nation at large.

A claim made to the Waitangi Tribunal under section 6 of the Treaty of Waitangi Act 1975, and its final settlement, is a matter between Maori and the Crown. It is not a matter between Maori and private landowners or the Crown and private landowners. The Bill ensures that the two parties to the settlement process are and remain Maori and the Crown. I commend the Bill to the House.

**12 Aug, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 537, pp17447-17457**  
**Treaty of Waitangi Amendment Bill** (Third Reading)

See *Transcripts of Debates*, p260

**D Kidd (Min of Maori Affairs)** says that the Bill does not prevent claimants from making a claim in respect of private land.

**Ian Peters** states –

When one looks at this small piece of legislation one is convinced that if we are to send out the right signals to New Zealanders the Bill is essential. I would be the first to concede that, in some ways, it is rather unfortunate that we have to do it. I am sure that, even if we had not written this sort of amendment, the Waitangi Tribunal might not have recommended again what it did in respect of the land north of Dargaville. However, because the tribunal did what it has done, the Government has no options really but to send out some very clear signals to all New Zealanders---not only to non-Maori but also to Maori.

**Dr Gregory** states –

The question of whether the Government of the day acts on the recommendations of the Waitangi Tribunal is not a matter that the Waitangi Tribunal can, in itself, deal with. It is important that the tribunal, in whatever work it does in respect of the grievances, has the record right. If, in the pursuance of that ideal, it makes recommendations that suggest that those are the steps to be taken in respect of those issues, it is in the records of this country that that must be made known.

The Bill that is before the House actually prevents that from taking place. I believe that if the tribunal in its wisdom exercises its recommendatory powers on the basis of the history of the land that has come before it---in this case privately owned land---it would be a curb on the responsibilities of the tribunal regarding the Treaty of Waitangi if it should no longer have the ability to make a recommendation---not a decision---with respect to that privately owned land.

On that basis, this Bill should be thrown out. It is a curb on the responsibilities that have been given to the Waitangi Tribunal to



produce a just and fair recommendation that is based on all the factors at its disposal or that can be brought to it, so that it can think on the issues in the full knowledge that it is the Government of the day, not the tribunal, that makes the final decision.

*Tirikatene-Sullivan* refers to the Tribunal's Manukau report and recommendations that the Crown negotiate for the acquisition of certain sites. Says that such recommendations will not be possible after passage of Bill. Says reassurance of public is a political purpose, not a legislative purpose.

*Tony Ryall* points out that recommendations for the return of private land might unfairly raise expectations of claimants.

*P Tapsell* says he believes the Tribunal will learn to make clear recommendations regarding private land in the body of their reports while excluding such recommendations from the formal list of recommendations at the end of the report.

Opposition speakers repeatedly state that a Labour Government would repeal the legislation.

**19 Aug, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 537, p17597**

**Answers to Oral Questions - Treaty of Waitangi – Private Land: Protection**

Treaty of Waitangi---Private Land: Protection

2. JOY McLAUHLAN to the Minister of Maori Affairs: Does the Government intend to reconsider protection for private land from Treaty of Waitangi claims?

Hon. DOUG KIDD (Minister of Maori Affairs): Having just passed the Treaty of Waitangi Amendment Act 1993, which has put into law the longstanding policy of the National Party that private land should not be returned to Maori or that the Crown not be requested to acquire it for return, the Government will not reconsider its policy, even though it has been stated on behalf of the Opposition that an incoming Labour Government would repeal that legislation.

Joy McLauchlan: What response has the Minister received to the legislation giving protection to private land from various causes?

Hon. DOUG KIDD: There has been a very positive response from a number of quarters. The legislation will achieve what the words of no politician have been able to achieve up until now---that we can now have the opportunity for the treaty settlement process to advance in a calm, secure environment, free of the fear, concern, and reaction that would be re-awakened if a Labour Government were to come to office and try to implement its policy.

**19 Aug, 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session, Hansard Vol 537, p17597**

**Answers to Oral Questions - Treaty of Waitangi – Private Land: Protection**

Treaty of Waitangi---Private Land Claims

3. JOHN CARTER (Bay of Islands), on behalf of BRIAN NEESON (Te Atatu), to the Minister of Justice: What reports, if any, have been brought to the attention of the Government relating to the use of privately owned land for the settlement of Treaty of Waitangi claims?

Hon. PAUL EAST (Attorney-General), on behalf of the Minister of Justice: This matter is a vexed question and the original legislation to establish the Waitangi Tribunal did not allow for historical claims back to the time of the signing of the treaty. That changed in

1985 when the Treaty of Waitangi Amendment Act was passed, and now claims for historical grievances can be considered by the tribunal. The tribunal was able to make recommendations that privately owned land be used to settle treaty grievances. However, that power has recently been removed by legislation introduced by this Government. A number of reports have been received that show that private landowners would face particular difficulty in respect of the valuation and sale of their land if that were subject to a Waitangi Tribunal recommendation.

John Carter: Apart from the comments made by many private landowners, have there been any expressions of support for preventing privately owned land from being subject to Treaty of Waitangi recommendations?

Hon. PAUL EAST: Yes, the Labour Party stalwart and Labour Party candidate for Tauranga is right behind the amendment. Mr Cliff Lee has come out in support of the Government's commitment to ensuring that New Zealand has a system of land title that guarantees title to the landowner and one that assures private owners that their land cannot be taken from them. Indeed, that Labour Party candidate is on record as saying that should he be elected as MP for Tauranga he will strongly object to any plans to repeal the National Government's legislation.

Hon. David Caygill: Why does the Government persist in the belief that banning this particular means of redressing such a claim will effectively dispose of the grievance behind the claim, or does the Government not really believe that at all but just pretends that it does?

Hon. PAUL EAST: It is clear that any recommendations about private land made by the Waitangi Tribunal will affect how that land is disposed of and indeed the valuation of the land, and that is the sort of policy that the former Labour Government Minister---and one of its best Ministers---Ralph Maxwell supports, and one of the reasons that he has cleared off from the Labour Party and supports such National Government policies.

**22 Dec, Hansard Question Supplement Vol 18, p107**  
**Written Question 418**

TAU HENARE (Northern Maori) to the Minister of Justice: Is he considering any proposal to use Crown Forestry Rental Trust funds in settlement of Treaty claims; if so, what are the details of such proposal?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: In terms of the Treaty of Waitangi Act 1975, the Crown Forest Assets Act 1989 and the trust deed of the Crown Forestry Rental Trust, if the Waitangi Tribunal recommends that any Crown forest land be returned to Maori ownership then those owners shall be compensated from the capital of the trust. I should make it clear that any such compensation will be taken into account by the Crown in considering the amount of any other compensation that may be due to such claimants who also have a well-founded Treaty claim that does not relate to Crown forest land.

**22 Dec, Hansard Question Supplement Vol 18, p107**

### Written Question 419

TAU HENARE (Northern Maori) to the Minister of Finance: Is the income derived from investment of Crown Forestry Rental Trust funds granted to groups or individuals for research or other purposes; if so, what are the criteria used in determining the eligibility of applicants for such funding, and how much has been granted to each such applicant within the Northern Maori electorate for each year since the Trust was established?

ANSWER :

Rt Hon W F BIRCH (Minister of Finance) replied: The interest earned from the investment of the Crown Forestry Rental Trust funds is used by the Trust to assist Maori to prepare, present and negotiate claims to the Waitangi Tribunal regarding land on which the Crown's exotic forests have been grown. The Crown Forestry Rental Trust notes in its information to claimants that it welcomes applications for assistance from any Maori eligible to take a claim against the Crown to the Waitangi Tribunal, and whose claim involves, or may involve, Crown forest land. The criteria used for determining the eligibility of applicants for funding are:

1. An application must be made by a Maori or group of Maori or any person acting on behalf of that Maori or group.
2. An application must relate to a claim against the Crown under the Treaty of Waitangi in respect of Crown forest land.
3. An application must relate to a claim which:
  - i. has been registered with the Waitangi Tribunal under the Treaty of Waitangi Act 1975 (as amended by the Crown Forest Assets Act 1989) and has received, or is awaiting, a "WAI" designation from the Tribunal; or
  - ii. is proposed to be registered with the Waitangi Tribunal and the particulars provided indicate a reasonable basis of claim.
4. An application for allocation of funds from the Trust must be for expenditure or activities which are proposed to be made or embarked on. No application will be considered for past expenditure or activities that have already taken place.
5. An application must be made on the application form prescribed from time to time by the Trustees. The form must be completed as fully as circumstances permit and all relevant available information requested by the form must be supplied when making an application.

As at 30 November 1993 the Crown Forest Rental Trust had accrued \$3.9 million for assistance to claimants. Aggregate figures only are available.

## **1994**

**1 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 540, p1284**

### **Answers to Oral Questions - Treaty Claims – Land Settlement Issues**

Treaty Claims---Land Settlement Issues

9. Hon. JIM SUTTON (Timaru) to the Minister in Charge of Treaty of

Waitangi Negotiations: In light of his comments in an article contributed to the New Zealand Farmer magazine that: "I am sick and tired of [the Parliamentary Under-Secretary for Agriculture's] comments on treaty settlements . . . If he bothered turning up at Cabinet meetings on treaty matters he might have some idea of what's being proposed.", has the Minister met the Parliamentary Under-Secretary to discuss land settlement issues?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): I have had brief discussions only with the Parliamentary Under-Secretary to the Minister of Agriculture but I have agreed to brief him fully at any time convenient to the both of us.

Hon. Jim Sutton: In view of the Parliamentary Under-Secretary's response in a following issue of the New Zealand Farmer that: "Treaty of Waitangi Cabinet committee meetings have not gone ahead on scheduled dates, they are changed on many occasions, then put on at the shortest notice, not within reach of anyone with a normal schedule. That makes it impossible to keep abreast of the findings of those meetings.", has he taken steps to give his colleagues a fair opportunity to make an input into policy?

Hon. D A M GRAHAM: I am pleased to be able to advise the House that most Ministers are able to attend and I do not see why he should not.

**14 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 540, p1638**

**Answers to Oral Questions - Treaty Claims – Valley Access, Greenstone/Caples/Upper Mararoa**

Treaty Claims---Valley Access, Greenstone/Caples/Upper Mararoa

8. NICK SMITH (Tasman) to the Minister in charge of Treaty of Waitangi Negotiations: Can he give any assurances on future access to the Greenstone, Caples, and upper Mararoa valleys in Fiordland?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): If the Crown negotiates a settlement of the Ngai Tahu claim that involves transfer to Ngai Tahu of interests in the Elfin Bay, Greenstone, or Routeburn high-country stations, there will be no reduction in current public access rights to these valleys. I should add, for the benefit of the honourable member, that at the present time there are undefined dedicated roads---in other words, non-formed roads; the public paths in the Greenstone valley in particular were not there as of right---and the people crossing them did so at the licence of the pastoral lessee, as he then was. Now that the Crown has acquired those properties, we are endeavouring to better formalise the public access rights.

Nick Smith: Given the popularity of these areas to trampers, recreational fishermen, and hunters, can he give a categorical assurance that people will not be charged for access to these areas in future?

Hon. D A M GRAHAM: The properties in question are being examined for conservation purposes, and tracts of those pastoral leases are likely to be set aside as part of the conservation estate. I have answered the question in so far as public access is concerned: it is not intended that people be charged for access through there into the high country.

John Blincoe: Given that 70 to 80 percent of this area has high conservation values, what steps, if any, will the Minister take to

transfer that 70 to 80 percent to the public conservation estate thus ensuring public access in perpetuity?

Hon. D A M GRAHAM: Certainly some of those properties have high conservation values. The Department of Conservation has prepared a very lengthy report on those conservation values. That report is out for public comment and is now being examined; I expect to have some discussions with the Minister of Conservation on it. Large tracts will be set aside as part of the conservation estate, and the residue, if it is used in the settlement, will pass to Ngai Tahu subject to public access rights.

Hon. Winston Peters: What machinery or institution is the Minister negotiating with in respect to Ngai Tahu, given that the Te Runanga o Ngai Tahu legislation that is proposed by the Government was directly opposed by his party when it was in Opposition and for the first year it was in Government?

Hon. D A M GRAHAM: The Te Runanga o Ngai Tahu Bill that is before the select committee was introduced during the term of the previous Government and has never been before this House before.

### **15 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 540, p1713**

#### **Answers to Oral Questions - Treaty Claims – Overall Settlement**

##### Treaty Claims---Overall Settlement

13. TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: Has the Government been seeking to enter into negotiations with selected Maori with a view to achieving an overall settlement of outstanding claims; if so, with whom has it been so negotiating?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: No.

### **16 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 540, p1785**

#### **Answers to Oral Questions - Treaty Claims – Overall Settlement**

##### Treaty Claims---Overall Settlement

5. TAU HENARE (Northern Maori) to the Minister in Charge of Treaty of Waitangi Negotiations: In view of his answer to question No. 13 yesterday that the Government has not been seeking to negotiate an overall settlement of outstanding claims, what was the purpose of his participation in the Rotorua hui at which he outlined the "fiscal envelope" concept to the other participants?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The so-called "fiscal envelope" concept is no more than the amount in dollar terms of Government assets that it intends to set aside and use to settle individual claims in which agreement can be reached. I was asked to attend the Rotorua hui to explain the concept, and was happy to oblige. It has never been the intention of the Government to hand over the total envelope to a small number of Maori for them to distribute amongst claimants. Each claim must be, and will be, dealt with on its own merits by negotiation between the claimant and the Crown.

Tau Henare: Has the Minister been communicating with individual Maori on a fiscal envelope settlement? If he has, why did he deny that yesterday?

Hon. D A M GRAHAM: No, I have not been talking to individual Maori about the fiscal envelope. I was asked to go to the Rotorua hui to

explain what the fiscal envelope meant. I went. I explained what it was. I did not ask them for their consent or agreement to either the concept or the quantum, which was not discussed anyway. It is a matter of the Crown's position, taking in the overall view of the claims---all 424---but each claim will be dealt with on its merits individually. There is no pan-Maori settlement of the land claim.

Tony Ryall: As a result of attending the hui in Rotorua, what reports did he receive describing the Treaty of Waitangi as an anachronistic fraud---such claims made by the leader of the New Zealand First Party?

Hon. Winston Peters: I raise a point of order, Mr Speaker. I would love to have that question answered but the Standing Orders and previous Speakers' rulings rule it out.

Hon. Paul East: If the leader of the New Zealand First Party has described the Treaty of Waitangi in such emotive terms as an anachronistic fraud, surely the Maori people would wish to put that point of view before the Minister of Justice when he is discussing treaty issues. It is quite proper for the Minister to be able to answer a question as to whether, at that hui, concerns were expressed by, perhaps, former New Zealand First supporters that their leader was describing the treaty as an anachronistic fraud.

Mr SPEAKER: I accept the point of order raised by the member for Tauranga. I do not think that the supplementary question is relevant to the major question, which has to do with the Government's decision---

Hon. Winston Peters: I raise a point of order, Mr Speaker. I would like you to clarify how it is that a member of Parliament can rise, like that one just did over there, and make that statement when, in my memory, I am certain that he cannot produce the evidence of my ever saying that.

Hon. D A M Graham: The member does it every day.

Hon. Winston Peters: Hang on a minute, I will stand by what I say. And if I did I will apologise to the House. I do not believe that I ever used that phrase.

Mr SPEAKER: That is not a point of order.

Tau Henare: I seek leave to table a letter from the Minister of Justice dated 10 March 1994 clearly stating that he had discussed the fiscal envelope at the secret hui in Rotorua held at the beginning of the year.

Mr SPEAKER: Leave is sought for that purpose. Is there any objection? There appears to be none.

[Document, by leave, laid on the table of the House.]

## **21 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 541, p1869**

### **Answers to Oral Questions - Treaty Claims – Fiscal Envelope Proposal**

Treaty Claims---Fiscal Envelope Proposal

13. Hon. K T WETERE (Western Maori) to the Minister in charge of Treaty of Waitangi Negotiations: Which iwi have been consulted on the fiscal envelope proposal, and what were their responses?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: As the fiscal envelope proposal is an internal mechanism of the Crown, iwi claimants during negotiations are made aware of its existence. I have, however, also explained the concept, and the perceived benefits to claimants and the Crown, to attendees at the hui held in Rotorua in February. As the consent of claimants to either the concept or the yet to be determined quantum is not

sought, no response has been made.

**22 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 541, p1930**

**Answers to Oral Questions - Treaty Claims – Overall Settlement**

Treaty Claims---Overall Settlement

6. TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: With which Maori has he discussed proposals for a fiscal envelope or fiscal cap for all treaty claims, and how has he described the proposal to them?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): I explained the concept to attendees at the Rotorua hui in February 1994 and I have similarly explained it to various claimant representatives. I informed them that the proposal was an internal mechanism of the Crown and of the perceived benefits to both claimants and the Crown. I also advise that Maori were not being asked to agree either to the concept or to the quantum of the envelope once that quantum has been determined.

Tau Henare: How did the Minister explain what he refused to explain on Ralston on Friday: what would happen to many of the smaller or unsettled claims if, once the Government had determined the total amount under the fiscal cap, it found all of the money had been used up in settling the larger claims; or to avoid that situation would that require the pan-Maori agreement he keeps denying is going to happen?

Hon. D A M GRAHAM: I never cease to be amazed at the lack of information that the honourable member has. If there is at this point a quantum then there is no reason that small claims cannot be settled along with the big ones. There is no suggestion of a pan-Maori settlement, as I have tried to explain to the honourable member many times.

Hon. Paul East: Concerning discussions with Maori, did he consider discussing the treaty claims with the leader of the New Zealand First Party---the member for Tauranga---who has described the supporters of treaty claims as ``sickly white liberals", although that, of course, was prior to New Zealand First winning the Northern Maori seat?

Hon. D A M GRAHAM: No, I have not discussed it with the leader of the New Zealand First Party. I am unaware of his views on the subject. Whenever I have tried to determine what his views are, they seem to change.

Rt Hon. Helen Clark: Could the Minister give the House a clear answer on whether it is the Crown's intention to limit the total sum of money available for claims made pursuant to the treaty within a limited period of time?

Hon. D A M GRAHAM: The intention of the Crown is to set aside a given amount of money, then to endeavour to settle the claims within it. As that is something in the future, we will have to see how we get on.

**28 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 541, p2333**

**Answers to Oral Questions - Treaty Claims – Fiscal Envelope Proposal**

Treaty Claims---Fiscal Envelope Proposal

7. TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: Who invited him to the February Rotorua hui

at which he outlined the fiscal envelope concept, and what was he told was the purpose of the hui?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): I was invited by Sir Graham Latimer. The purpose was to enable me to explain the Crown's fiscal envelope concept. I was not present throughout the whole hui and therefore cannot comment on what other presentations, if any, were made.

Tau Henare: Given that the issue of the fiscal cap or the fiscal envelope was raised at the hui, how will the proposed \$175 million land settlement with the Waikato tribes impinge on other whanau, hapu, and iwi claims currently before the Waitangi Tribunal, and on those claims yet to be lodged?

Hon. D A M GRAHAM: There is no \$175 million settlement, and therefore it has no application.

Hon. David Caygill: When does the Minister expect to make such progress on any major treaty settlement that would raise any question of the need for an overall envelope?

Hon. D A M GRAHAM: Even if we were to make quick progress on one of the major claims, I do not think that would obviate the need for the envelope. The Government is proceeding steadily with a number of policy decisions in relation to the claims under the treaty. When they are in place I am hopeful of being able to make faster progress, particularly with the major claims.

#### **28 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 541, p2337**

#### **Answers to Oral Questions - Treaty Claims – Fiscal Envelope Proposal**

Treaty Claims---Fiscal Envelope Proposal

15. TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: What discussions, if any, has he had with representatives of the Crown Forestry Rental Trust regarding proposals for either a fiscal envelope or a pan-Maori settlement covering all treaty claims?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: I do not recall discussing either topic with the trustees.

#### **29 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 541, p2407**

#### **Answers to Oral Questions - Treaty Claims – Fiscal Envelope Proposal**

Treaty Claims---Fiscal Envelope Proposal

9. Hon. DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister in charge of Treaty of Waitangi Negotiations: Will he be introducing legislation to implement the Government's proposed ``envelope" and cut-off date limiting claims before the Waitangi Tribunal; if so, is such legislation likely to be introduced this year?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): No, it is not intended to legislate for the proposed ``envelope". A final decision on any limitation period has yet to be made, but, clearly, legislation would be required.

#### **12 Jul, Hansard Question Supplement Vol 18, p1013**



**Written Question 3978**

Hon DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister in charge of Treaty of Waitangi Negotiations: In the address he prepared for delivery on 24 June 1994 to a public meeting organised by Public Access New Zealand held at Otago University when he said ``The Government considers that any one or more of its assets must be considered as part of the package even though the claim to a given area of land might have failed" did he mean that land could be handed over in settlement of the claim even though the Waitangi Tribunal had found there was no breach of the Treaty in respect to that land; if not, what did he mean?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: Yes, where appropriate. The Government may have disposed of land where a claim is proved and no other property is available within the rohe.

**14 Jul, Hansard Question Supplement Vol 18, p1038**  
**Written Question 4065**

GEORGE HAWKINS (Manurewa) to the Minister of Justice: Is there a claim before the Waitangi Tribunal over lands held by the Auckland International Airport Limited?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: There are a number of claims before the Tribunal of a general nature but which would include the lands held by the Auckland International Airport Limited. However, no claim specifically mentions the company or its land holdings. It is noted that the Tribunal does not have the ability to make recommendations in respect of land in private ownership.

**14 Jul, Hansard Question Supplement Vol 18, p1038**  
**Written Question 4066**

GEORGE HAWKINS (Manurewa) to the Minister of Justice: What claims are outstanding before the Waitangi Tribunal, and how many are outstanding?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: Because there are over 300 claims before the Tribunal which are under investigation of some kind, or are still to be dealt with, a copy of the summary of the register of claims has been forwarded separately to the member rather than give a claim by claim breakdown here. The register summary shows the status of each claim. A copy is held by the Parliamentary Library for perusal by other members.

**14 Jul, Hansard Question Supplement Vol 18, p1053**  
**Written Question 4109**

Hon Mrs T W M TIRIKATENE-SULLIVAN (Southern Maori) to the Minister of Justice: What is the budgeted amount for services to the Waitangi Tribunal; what proportion of this amount is specifically allocated for research and administration; and has the overall funding increased from the previous year; if so, by how much; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: The budgeted amount for services to the Waitangi Tribunal for the 1994-95 financial year is \$3,408,000. Of this sum 41.12 percent (\$1,402,000) is allocated specifically for research purposes. The administration provision makes up 21.8 percent of the budget (\$743,000). The remainder of the budget is allocated to Tribunal running expenses, e.g. hearings, accommodation, fixtures, members' fees and travel (28.25 percent \$962,000) and for the provision of specialist advisory and information services (8.8 percent \$301,000). The Waitangi Tribunal budget has been increased by 33.86 percent (\$862,000) in comparison with the previous financial year.

**23 Aug, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 542, p2954**

**Answers to Oral Questions - Treaty Claims – Fiscal Envelope Proposal: Ministerial Consultation**

Treaty Claims---Fiscal Envelope Proposal: Ministerial Consultation

10. TAU HENARE (Northern Maori) to the Minister of Maori Affairs: What plans, if any, does his ministry have for consultation with iwi, hapu, and whanau in relation to any proposals for a "fiscal envelope"?

Hon. JOHN LUXTON (Minister of Maori Affairs): The Government is currently considering proposals relating to the settlement envelope. Upon the completion of the proposals, they---along with other elements of the Government's generic treaty policy---will be released to iwi, hapu, whanau, and the wider public, in order to gather their views. Planning for the release of information to iwi, hapu, and whanau has commenced, but definite plans are not yet available.

Tau Henare: Why does the Government continually deny that there is a fiscal envelope, and, given that the amount of opposition to it is very widespread amongst Maori, does the Minister not know that many Maori are against the idea of a fiscal envelope?

Hon. JOHN LUXTON: The concept has had considerable coverage and I am unaware that the Government is denying its existence. There has been something that is commonly called a fiscal envelope, for two reasons: first, to ensure relativity in the settlement of claims round the country, and, second, to give some budgetary constraints within the functioning of Government. It is very, very simple.

Tony Ryall: Will the views of the wider non-Maori public be sought in this matter?

Hon. JOHN LUXTON: Yes, there will be a broad consultation process that includes the wider public.

**6 Sept, Hansard Question Supplement Vol 19, p1253**

**Written Question 4861**

TAU HENARE (Northern Maori) to the Minister of Finance:  
Does the Crown Forest Rental Trust have available any funds that could be used by Ngati Haua to research alienation of any of its interest in the land currently in dispute between it and Robert Buchanan at Whangape; if so, what funds could be available for that purpose?

ANSWER :

Rt Hon W F BIRCH (Minister of Finance) replied: The Crown Forestry Rental Trust is a legal entity independent from the Crown. The Trust Deed clearly sets out the purpose of the Trust, to receive rental proceeds from Crown Forestry Licenses, and to make interest, earned from investment of those rental proceeds, available to assist Maori in the preparation, presentation and negotiation of claims before the Waitangi Tribunal which involve, or could involve, licensed land. The Trust has developed criteria which prospective applicants must meet in order to receive funding from the Trust. I attach for your information a copy of these criteria which are publicly available. Like all other prospective applicants, a request by Ngati Haua will be considered according to these funding criteria. Funding is granted to successful applicants based on the nature of the work required to prepare, present and negotiate claims before the Waitangi Tribunal. I understand that Ngati Haua applied for financial assistance from the Trust on 9 August 1994 and that it is planned that their application will be considered by the Trustees at their next scheduled meeting on 4 October 1994.

**6 Sept, Hansard Question Supplement Vol 19, p1254**  
**Written Question 4862**

TAU HENARE (Northern Maori) to the Minister of Forestry:  
Does he have available any funds which may be used by whanau, hapu, or iwi to research the alienation of Maori land; if so, what are the criteria attaching to such funds?

ANSWER :

Hon JOHN FALLOON (Minister of Forestry) replied: The Ministry of Forestry does not administer any such fund, however assistance is given to Maori in the preparation, presentation and negotiation of claims before the Waitangi Tribunal by the Crown Forestry Rental Trust. The Crown Appointer, and appropriate contact regarding the activities of the Trust, is the Minister of Finance.

**6 Sept, Hansard Question Supplement Vol 19, p1254**  
**Written Question 4866**

TAU HENARE (Northern Maori) to the Minister for the Environment: Does he have available any funds which may be used by whanau, hapu, or iwi to research the alienation of Maori land; if so, what are the criteria attaching to such funds?

ANSWER :

Hon SIMON UPTON (Minister for the Environment) replied: Neither the

Ministry for the Environment nor myself as Minister have, nor do we provide funds for research into alienation of Maori land. This is usually the preserve of the Waitangi Tribunal and the Maori Information office. The Maori Information Office is part of the Justice Department. It handles Maori land claims.

**11 Oct, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 543, p4117**

**Answers to Oral Questions – Ngai Tahu Maori Trust Board – Crown Money**

Ngai Tahu Maori Trust Board---Crown Money

4. SANDRA LEE (Auckland Central) to the Minister of Maori Affairs: Did the Crown provide money to the Ngai Tahu Maori Trust Board to advance the Ngai Tahu Waitangi Tribunal claims; if so, what was the total amount of money?

Hon. JOHN LUXTON (Minister of Maori Affairs): In fulfilment of a recommendation of the Waitangi Tribunal, the Crown, in November 1991, made a payment of \$1.25 million---GST inclusive---to the Ngai Tahu Maori Trust Board to enable it to engage the necessary professional and related administrative services to progress its negotiations with the Crown.

Sandra Lee: Can the Minister advise whether the \$577,000 paid to Sir Stephen O'Regan's company, Aoraki Consultant Services, came from the Crown allocation or from the Ngai Tahu Maori Trust Board's illegally spent \$1.4 million charitable trust?

Hon. JOHN LUXTON: It is my understanding that there is a set of consolidated accounts within the particular trust board referred to, and it is very hard to identify any item of expenditure against any item of revenue.

Hon. K T Wetere: In view of his practice with regard to the accounts of the Ngai Tahu Maori Trust Board, was it not a fact that when the accounts were submitted to the Minister for his approval for auditing, those accounts were not full and final as he would understand it?

Hon. JOHN LUXTON: The accounts were full and final, but a couple of breaches of the trust board legislation were tagged by the auditor.

Hon. Winston Peters: Given that the Minister gave a certain answer last week to a similar question, and given his failure to reply today with respect to his statutory oversight, does he intend to exercise his statutory oversight properly; if not, why does he not just resign?

Hon. JOHN LUXTON: Earlier this year I notified all trust boards that were in breach of the requirements under the trust board legislation, and I found that quite a number of those had been in breach of their requirements since the late 1980s, including when that member happened to be the Minister responsible for that portfolio.

[...]

Sandra Lee: I seek leave to table the review report of the Ngai Tahu land claim, which includes a balance sheet for payments to Sir Stephen O'Regan.

Mr SPEAKER: Leave is sought for that purpose. Is there any objection? There appears to be none.

[Document, by leave, laid on the table of the House.]

**19 Oct, Hansard Question Supplement Vol 19, p1694**  
**Written Question 6659**

Hon K T WETERE (Western Maori) to the Minister of Justice:  
 How much money has been reimbursed by the Crown since 21 September 1992 in regards to Waitangi Tribunal claimants' research, negotiating, and technical assistance costs, and would he specify the nature of the claims and the claimants?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: For the period September 1992 to September 1994, the Waitangi Tribunal has paid to claimant researchers, or their representatives, \$254,078.76. Further sums of money for research yet to be completed, is held by the Tribunal on either an accrual basis from previous financial years, or in respect of the current financial year. A spreadsheet breakdown of these payments follows.

The wording of the question makes it difficult to ascertain exactly what the member for Western Maori requires and I have instructed the Director of the Waitangi Tribunal to meet with the member to have this matter clarified and the information supplied in due course.

FUNDING XLS

Waitangi Tribunal Research Funding September 93-September 94  
 Ministerial No. 6659

Paid to:	Voucher No.:	Claimants No.:	Claim:	Nature of Claim:	Claimants:
			research:		
			Amount		
			Excl GST:		
Atiawa ki Whakarongotai	344	7111.11			
Denise Henare	543	13,333.33	Wai 30	General confiscation	R Mahuta and Tainui
M A Salmond	4000		Wai 45	General Research	Matiu Rata Muriwhenua
B Easton	4193	1162.67	Wai 45	General Research	Matiu Rata Muriwhenua
M Nepia	844	1035.6	Wai 45	General Research	Matiu Rata Muriwhenua
J N Mane Wheoki	2073,4163		3000	Wai 46 General Research	Hirini Moko Mead
R M Silks	286	10000	Wai 46	General Research	Hirini Moko Mead
Te Runanga o Raukawa	2002	2000	Wai 52	General Research	Tamihana Tukapuna Whanganui
Te Runanga o Tuwharetoa	403,970	2666.67	Wai 52	General Research	K Porirua
Whakatohea Maori Trust Board	19	17,777.78	Wai 87	General Research	C Edwards Whakatohea
Dosli	287	1572.47	Wai 100	Maps, Survey	H Tukukino Hauraki

Te Runanganui o te tau ihu o te Waka a Maui	971,4197	17,777.78	Wai 102	General Research	F McDonald Rangitane
N Z Guardian Trust	300,2081	69000	Wai 143	General Research	Taranaki Masterfile
	901,4062	69000	Wai 143	General Research	Taranaki Masterfile
H Rizeborough	918	2000	Wai 143	General Research	Taranaki Masterfile
J E Murray	4191,417,647	4000	Wai 143	General Research	Taranaki Masterfile
R Boast	2004	5000	Wai 153	General Research	R M T Phillips
P Parsons	3009	6,500.00	Wai 201	General Research	W H Christie and others
Kensington Swan	402	12000	Wai 215	General Research	A Kohu and others
Kensington Swan	530	18,000.00	Wai 304	General Research	T Tamehana
Raukawa Consultants	741	1333.33	Wai 304	General Research	T Tamehana
R Boast	2004	2500	Wai 304	General Research	T Tamehana
Kensington Swan	2082	606.83	Wai 304	General Research	T Tamehana
Tom Bennion	652	444.44	Wai 214	General Research	K Mair
M Alemann	171	649.8	Wai 45	General Research	Matiu Rata
Maniapoto Trust Board	75	35000	Wai 48	General Research	Joan Akapita Te Aroha Waitai
Vicki Pomeroy	240,402,403	14,055.45	Wai 55	General Research	T Otane, Reti
Dosli	684	1,551.50	Wai 55	General Research	T Otane, Reti
Total \$254,087.76					

**8 Nov, Hansard Question Supplement Vol 19, p1766**  
**Written Question 6912**

H V ROSS ROBERTSON (Papatoetoe) to the Minister for State Owned Enterprises: Further to his reply to question for written answer No. 5945 that Landcorp Farming Limited is not up for sale, are there plans to use all or part of Landcorp Farming to settle Treaty of Waitangi claims; if so, what?

ANSWER :

Hon PHILIP BURDON (Minister for State Owned Enterprises) replied: Most Landcorp farms are subject to section 27B memorials which provide for individual properties to be resumed by the Crown to settle individual Treaty of Waitangi claims, if so recommended by the Waitangi Tribunal. In general, the Government's policy is to retain the capacity to use Landcorp farms as one possible means to settle

particular Maori claims, and the memorials demonstrate the Government's commitment to do this. At this stage no decision has been made by the Government to use Landcorp farms to settle particular Treaty claims.

**15 Nov, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 544, p4762**  
**Answers to Oral Questions – Freehold Land Title Indefeasibility**

**8 Dec, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 545, p5529**  
**Answers to Oral Questions – Treaty Claims – Fiscal Envelope**

Treaty Claims---Fiscal Envelope

1. Hon. DAVID CAYGILL (Deputy Leader of the Opposition) to the Prime Minister: Does the Government intend to persist with its proposal to impose an arbitrary limit on the total sum available for the settlement of Treaty of Waitangi claims notwithstanding indications that there is substantial opposition to this concept from Maoridom; if so, why?

Rt Hon. J B BOLGER (Prime Minister): The Government, in making provision for funding Treaty claims, has sought a framework that states in advance the broad sum required to settle grievances and a process of managing individual claims over a number of years so it can give confidence to all claimants that they will be treated equally. Without a known limit it is difficult for claimants to tell whether what is being negotiated in settlement is fair and equitable relative to other claims. I have no doubt the concept will be discussed in the weeks ahead. We, in Government, believe that it does provide a fair basis on which to make progress.

Hon. David Caygill: Is the Government prepared to hold open the possibility that it might reconsider this aspect of its overall proposals if there is overwhelming evidence that this concept is not acceptable to Maoridom?

Rt Hon. J B BOLGER: I said in both the presentation I made last night to the Maori leaders of New Zealand at Premier House and the press conference an hour ago that the process cannot proceed unless New Zealand collectively agrees. The settlement of treaty claims going back 154 years cannot be concluded by a vote of 51 to 49 in this Parliament. Therefore, there has to be a much broader sign-up to the concept than that. I say to the honourable member, in a spirit of bipartisanship, that I do not think the proposal that was articulated by his colleague---that the Labour Party will put the conservation estate into the settlement envelope---will be without dispute and without rancour. That was announced as fully endorsed by the Labour Party. I think that will be debated in the weeks ahead, as well.

Hon. David Caygill: I raise a point of order, Mr Speaker. I appreciate the Standing Orders in respect of this matter but in view of its importance I hope the House will allow me to say briefly to the Prime Minister that that report is not accurate.

John Robertson: What principles and concerns will guide the Government in moving forward on the resolution of these treaty grievances?

Rt Hon. J B BOLGER: We will want to be certain, and we will be guided by seeking that certainty, as we deal with individual claimants---something like 400 claimants, of which about six are large claims, and the rest are very small or moderate---that there is a fairness and an equity in how we settle those claims. To achieve

that, it is the Government's judgment that we have to have a view at the outset as to what way we will deal with claims if we are going to handle the claims over 10 years and make settlements over 10 years. I believe those at the beginning of the claimant process should not be advantaged over those at the end or vice versa. That will be guiding us as we listen to the responses and we make, in turn, our response to the submissions. I have no doubt many thousands will come in from the public at large.

Tau Henare: Given that the deadline for the lodgment of claims under the treaty has not yet been reached, does the fact that the Government has now determined a set maximum of all claims---before many of them are even in---mean that it is treating all new claims with contempt; if not, what does it imply about its attitude to new claims?

Rt Hon. J B BOLGER: I assure the honourable member that, had he been able to accept my invitation to attend yesterday, he would have seen that we were not treating any claim with contempt. We are still awaiting a reply from the leader of the Alliance. New Zealand First did reply. We are not treating anything with contempt, but we all, in this Parliament and in the community, know that the very large claims have been lodged for many, many years. So, while some small claims may emerge in the next year or two, they will not materially affect---not wanting to diminish the importance to the claimants, because they will be important to the claimants---the overall scale of the claims that have been lodged.

**8 Dec, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 545, p5530**  
**Answers to Oral Questions – Treaty Claims – Fiscal Envelope**

Treaty Claims---Fiscal Envelope

2. PAULINE GARDINER (Wellington-Karori) to the Minister in charge of Treaty of Waitangi Negotiations: Now the Government has publicly launched its proposals for the resolution of financial claims under the Treaty of Waitangi, what are the procedures and opportunities for all New Zealanders to understand and respond to the Government's proposal?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): Members of the public, Maori and pakeha, are invited to consider and make submissions on the proposals in the booklets released today. The booklets are widely available through the Office of Treaty Settlements, Te Puni Kokiri, libraries, and Government booksellers. There will also be an 0800 number for inquiries from the public. It is proposed to hold hui and meetings within sector groups and with members of the public in the next few months.

Pauline Gardiner: What public inquiry has been received so far on the 0800 number?

Hon. D A M GRAHAM: I am very pleased that there has been an extraordinarily good response. In the 2 days since the insertion of the advertisement in the newspaper there have been 2,417 requests for the booklets.

Hon. David Caygill: How long does the Government envisage allowing for responses to the proposals; is there a particular time limit that it is sensible for people interested in responding to contemplate?

Hon. D A M GRAHAM: No, there is no time limit. We will give as much time as it takes. The issues are complex, and it will take some time for the public to understand what the proposals are. I would



imagine that the hui and the meetings will be held between February and April, but submissions may come in at any time.

**8 Dec, Hansard Question Supplement Vol 19, p2084**  
**Written Question 8173**

Hon ROB STOREY (Waikato) to the Minister of Lands: What advice, if any, has he received on reports that former owners of land taken under the Public Works Act and then offered back, should not have to pay the full market value of the land?

ANSWER :

Hon DENIS MARSHALL (Minister of Lands) replied: I have received no advice on reports that former owners of land taken under the Public Works Act should not have to pay the full market value when it is offered back. I am, however, aware that the Waitangi Tribunal has recently commented in a report that when land compulsorily acquired is no longer needed then the Crown should exercise discretion about how it may dispose of it. The Tribunal suggests that this discretion be used positively to ensure that Maori are not prevented from having their ancestral lands returned to them by the requirement to pay full market value as a condition of return. The Government is still considering that report.

**8 Dec, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 545, p5535-5560**  
**Debate – Settlement of Treaty of Waitangi Claims**

*J Bolger (Prime Minister)* introduces debate –

The time-frame we have set ourselves is 10 years. We do that because the number of negotiations that will be required, in our judgment, will take about 10 years. We would be happy if it could be done more quickly but we think it will take about 10 years. It also enables the considerable costs associated with the settlement to be spread over a period that will make them affordable. At an earlier stage in my political career I stated that we would settle all the claims by the year 2000. That is not possible now. Let us hope that a decade from now, by the year 2005, we or successive Parliaments will be able to say: ``We have covered the 10 years. We have reached the goal. We have settled those issues."

I wish to make one other point, which I also made to the gathering of New Zealand's Maori leaders at Premier House yesterday. Settling the claims under article 2 of the Treaty of Waitangi is not a substitute for the responsibilities that are aligned with article 3. It is not, as some would have it, a trade-off; that if we spend a billion dollars here we can take a billion dollars from somewhere else. Quite simply, they are distinct and separate obligations that the public of New Zealand has inherited through the signing of the treaty. We have to honour both articles, as well as the enormously important constitutional principles of article 1.

Debate mostly focusses on proposed settlement principles (particularly the fiscal envelope proposal) with cursory references to the Tribunal.

*Sandra Lee* on the proposed fate of the Waitangi Tribunal –

The Minister has also indicated in his documents that there will be a winding back of other protection mechanisms, including reduction of the jurisdiction of the Waitangi Tribunal and the courts as claims are settled. I am concerned about that. The Waitangi Tribunal has been a very important cultural safety-valve in this country. I invite both Maori and pakeha alike to think about what the political landscape of our country might have been like in 1994 had the Waitangi Tribunal not been in place. Any winding back or marginalisation of the tribunal's terms of reference will be of concern to many Maori, because the tribunal has conducted its business in a highly professional way. It has allowed the grief that is part of the grievances to be expressed in communities throughout the length and breadth of Aotearoa. The result of that process has been important for pakeha New Zealanders and Maori as communities have had an opportunity to listen to the concerns that generated these grievances in the first place. The tribunal has played an important educative role. We do not want to see it undermined.

Says Tribunal should remain as the adjudicator between Crown and Maori.

## 1995

28 Feb, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p5606

### Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope

Treaty of Waitangi---Fiscal Envelope

4. Hon. DAVID CAYGILL (Deputy Leader of the Opposition) to the Prime Minister: Which elements, if any, of the fiscal envelope cap are negotiable and when will decisions be made?

Rt Hon. J B BOLGER (Prime Minister): At present, Ministers at hui across New Zealand are explaining the Government's proposals to settle historic land claims, and also listening to the views of Maori. When the round of meetings is over, Ministers will further consider the issues raised at the hui. It is important to understand that the Government is not looking for all Maori to agree, rather we are inviting those who have proven claims to discuss and negotiate a settlement of their claims on a one-by-one basis.

Hon. David Caygill: Was the Prime Minister correctly reported in September last year when the Evening Post suggested he had said that the settlement of Maori claims would not have credibility unless it had widespread support; if so, how many hui will it take to convince him that the fiscal envelope does not have widespread support, or is it now his position that no amount of opposition will persuade the Government to reconsider that element?

Rt Hon. J B BOLGER: The Government cannot impose settlements. What it is saying is that it has a sum of money with which it wishes to negotiate with the claimants individually, one by one. If they do not negotiate or if in negotiations the Crown and the individual iwi cannot reach agreement then no settlement is made. It is as simple as that. It is not complex and our invitation is very open: ``Please come and talk to us. Talk to the Minister and his officials, and see whether we can negotiate a settlement of grievances that are genuine and proven and go back over 100 years."

John Carter: Can the Prime Minister advise to whom is the proposed \$1 billion settlement fund to go?

Rt Hon. J B BOLGER: In effect the proposed \$1 billion is to go to the Minister in charge of Treaty of Waitangi Negotiations, who will then negotiate settlement. Those settlements will not be in cash only but will also include the return of land and other resources where appropriate and agreed. It is quite simply the allocation by the Minister of Finance on an annual basis of a sum of money to the Minister in charge of Treaty of Waitangi Negotiations so he is in a position to negotiate with a sizable resource behind him. Obviously, if we cannot make any progress then we will not need to transfer any resources to the Minister in charge of Treaty of Waitangi Negotiations.

Hon. Winston Peters: With regard to the hui that have already been conducted and the almost universal view of Maoridom---with the exception of Sir Graham Latimer, who has other concerns on his mind at this point in time---which part of ``No" does the Government not understand?

Rt Hon. J B BOLGER: I am pleased that the member has picked up my slogan, which I put to Paul Holmes first---the member is catching up. If Maori do not come to negotiate with the Crown no settlement can be entered into, and whether or not one or two spit at us at Waitangi or in other ways, we do not care.

Tau Henare: Hang on, I'm getting my violin.

Rt Hon. J B BOLGER: They spat and that member was there. They were his Ngapuhi.

Tau Henare: You poor soul.

Rt Hon. J B BOLGER: If the honourable member for Northern Maori agrees with that behaviour let him say so. I do not. I think it was wrong. Having attended but one hui, in my own town of Te Kuiti---

Tau Henare: And they said no. I was there.

Rt Hon. J B BOLGER: I saw you skulking around the back there behind the tent.

Mr SPEAKER: Let me assure the Prime Minister that I was not skulking around the corner. He should address the Chair.

Rt Hon. J B BOLGER: Mr Speaker, you most certainly were not and I withdraw that suggestion. A number of the submissions made to the Ministers included comments such as: ``We must find the sensible common middle ground. We want settlements that are fair. We want settlements that are affordable." Yes, there were those who in a theatrical sense tore up the proposal. I have seen that happen in this House. We did not abandon this House because members of Parliament tore up Budgets in this House. That is a part of the old theatre. We want to deal with those who have a claim, not those who do not, and we would like to negotiate a settlement.

## **28 Feb, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p5607**

### **Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

5. TONY RYALL (Eastern Bay of Plenty) to the Minister in charge of Treaty of Waitangi Negotiations: What action, if any, will the Government take when consultation on the settlement package for Treaty of Waitangi claims is completed?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): It is intended that the submissions received from both

Maori and non-Maori will be collated and carefully considered. The Crown's proposals on representational issues, gifted lands, and the availability of conservation lands and natural resources as redress, as set out in the booklets, will then be reconsidered in the light of those submissions.

Tony Ryall: Whatever those reconsiderations, can the Minister confirm that full and final agreement will be a prerequisite to any settlement of any claim?

Hon. D A M GRAHAM: Yes, I can confirm that point.

Hon. David Caygill: At the end of its consultations is the Government prepared to reconsider the fiscal envelope element of its proposals in the light of the overwhelming opposition to that element?

Hon. D A M GRAHAM: If there is overwhelming opposition to the fiscal envelope then I have no money to effect any settlement. I do not think that that is quite what---

Trevor Mallard: The answer is that there is \$1 billion.

Hon. D A M GRAHAM: That actually is true. The Government has decided that over the next 10-year period the amount of \$1 billion should be set aside and made available to the negotiators for the Crown to endeavour to effect individual settlements. That decision is unlikely to change.

**28 Feb, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p5611**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

6. TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: How was the \$1 billion figure for the fiscal envelope calculated?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): There was no calculation as such because the amount set aside to settle claims is ultimately a political judgment. The Government needed to weigh up the objective of settling treaty grievances against the many other demands on the public purse. This meant assessing the amount in terms of its viability with claimants---that is, that the elements of a settlement will be sufficient to redress the claimants' sense of grievance---its ability to secure durable settlements, and its acceptability to the wider community.

Tau Henare: Is it not true that the figure of \$1 billion was chosen for no other reason than that it was a big enough amount to look to non-Maori like the Government was being extremely generous and to make Maori look greedy for arguing that they were entitled to more, and that the \$1 billion has nothing to do with achieving a just settlement but has everything to do with a cynical attempt to make the Government look good for making a generous offer?

Hon. D A M GRAHAM: Eventually the honourable member might realise that we actually have to vote money to be able to effect any settlement at all. We have, in fact, expended some of the moneys already in a number of settlements and we are progressing negotiations all the time. We had to make an estimate and make that commitment---so the Government was serious about settling claims. That is a good deal more than any other political party seems to be prepared to do.

Tony Ryall: Given that acceptability to the current generation of taxpayers is a key tenet of his proposals, does the Minister reject the open-ended cheque-book proposal of some small and irrelevant political parties?

Hon. Winston Peters: I raise a point of order, Mr Speaker. My point is that the Minister has certain responsibilities under the Standing Orders and Speakers' rulings. They do not preclude him from being a spokesman for the National Party 2 years from now. The question from the member for Eastern Bay of Plenty is simply out of order, besides which, he has not gone to one hui in his electorate---and the last two were held there.

Mr SPEAKER: My understanding was that he was asking the Minister whether he rejected the open cheque-book policy. That is perfectly within the Minister's area.

Hon. D A M GRAHAM: In the two major negotiations the Crown has been conducting over the last 3 years, namely, Ngai Tahu and Waikato Tainui, both of them assert claims in excess of \$10 billion each. If we accept that the country is unable to afford all of that in full, then it seems appropriate to tell people what we think we can afford. I would hope those political parties that have an interest in the matter would do the same so that there is some consistency in approach to the Maori people.

**1 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p5688**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

5. Hon DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister in charge of Treaty of Waitangi Negotiations: To date, how many submissions have been received on the Crown's proposals for the settlement of Treaty of Waitangi claims, and what are those responses?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): To date, around 85 submissions have been received. The final date for submissions is not until 19 May. A full analysis is intended only once all submissions have been received.

Hon. David Caygill: Is the Government prepared to indicate to those still contemplating making submissions whether any level of opposition to the fiscal envelope will persuade the Government to dispense with that particular element of its proposals?

Hon. D A M GRAHAM: No, I am not prepared to say anything at all about them until we have read them all.

Tau Henare: When and in what form will the Crown consult non-Maori?

Hon. D A M GRAHAM: That is taking place at the same time. In fact, so far, more submissions have been received from non-Maori than from Maori. About 8,500 people rang the 0800 telephone number to obtain copies of the proposals and that, of course, is in addition to those who picked them up from the Government shops.

**1 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p5693**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

16. TONY RYALL (Eastern Bay of Plenty) to the Minister in charge of Treaty of Waitangi Negotiations: What response does he plan to make to submissions he has received to date at hui being held to discuss the fiscal envelope proposal?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: All submissions made at hui will be recorded and will be incorporated into an analysis of all submissions, both written and oral. The Government will consider its response to submissions once they have all been received and analysed.

**2 Mar, Hansard Question Supplement Vol 20, p2386**  
**Written Question 645**

Hon DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister of Fisheries: Has the Treaty of Waitangi Fisheries Commission reported to him yet on the method of allocation to iwi of pre-Sealord settlement assets; if not, when will he receive their report?

ANSWER :

Hon DOUG KIDD (Minister of Fisheries) replied: The Treaty of Waitangi Fisheries Commission has not yet reported to me on the method of allocation of pre-settlement assets. There is no time period specified in law which requires the Commission to report to me on the disposition of pre-settlement assets. There is currently a claim before the Waitangi Tribunal and actions before the High Court which include the question of the allocation of those assets. I do not expect to receive any report from the Commission on this matter until those actions have either been heard or disposed of.

**8 Mar, Hansard Question Supplement Vol 20, p2436**  
**Written Question 824**

Hon K T WETERE (Western Maori) to the Minister of Justice: Given the comparatively low educational achievement of Maori and Pacific Islanders, does his department and associated agencies provide scholarships or any assistance to these people for secondary and tertiary education; if so, how much, and how does this compare with funding for the past two financial years; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied: The amount of support provided by the Department of Justice is as follows:

The Waitangi Tribunal is providing full time work during university holidays and half time work during the university term for two tertiary level Maori students this year. This will continue through to the end of next year. Commercial Affairs, from the Public Registries Group, has provided two scholarships for tertiary level Maori students in the last two years, which are still current. A Pacific island scholar was also supported, through vacation work, for the duration of her studies which were completed last year. She is now working in the Commercial Affairs office in Auckland as a full time staff member. Psychological Services, from the Corrections Operations Group, have provided scholarship support for four Maori

students to complete postgraduate degrees in psychology in the previous two years. They are currently providing support for a Pacific island student and two further Maori students this year. In total, the Department of Justice is providing support for five new Maori and Pacific island students at tertiary level this year and has provided support for seven Maori and Pacific island students at tertiary level in the last two years, two of which are still current. There is no difference in the level of support provided over the last two years and in the current year. The support is scholarships for \$3,000 per year and paid vacation work, which has been enhanced in the case of the Waitangi Tribunal.

**14 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6048**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

2. Rt Hon. HELEN CLARK (Leader of the Opposition) to the Prime Minister: Does the Government intend to abandon its fiscal envelope policy and initiate meaningful discussions, without prejudice, with Maori leaders on how to proceed with the settlement of Treaty of Waitangi claims; if so, when?

Rt Hon. J B BOLGER (Prime Minister): The Government stands ready to discuss with Maori leaders issues concerning the settlement of Treaty of Waitangi claims. At this stage the Government has extended, at Maori request, the date for the closure of submissions on the settlement package from 19 May to 31 August 1995. The invitation to Maori claimants to sit down with the Government and negotiate to resolve their claims is still on the table.

Rt Hon. Helen Clark: Given that Government promotion of the fiscal envelope policy is driving divisions within Maoridom---and between Maori and Pakeha---and is providing a platform for extremists, how much longer will the Government continue to promote this flawed policy?

Rt Hon. J B BOLGER: I do not agree with the analysis of the leader of the Labour Party of what the Government is doing. Ministers have been prepared, for the first time---perhaps ever, but certainly for a number of years---to go out to Maori on their marae and to listen to them. We have not sought to debate the issue with them. I advise those members of the House who have not been there that what happens is that the Minister---whichever one is leading the team at that stage---presents the Government's proposal. We then listen to Maori submissions on that proposal and we depart. We do not debate the issue with them.

It is causing some tension within Maoridom, but I think that is inevitable if Maori are to come to grips with wanting to solve the problem. If they want only to nurse the grievance, then of course we cannot solve it. The Government's offer, as I said in the substantive answer, is on the table. The offer is: if one has a claim, please come and sit with the negotiators and we will seek to resolve it.

Pauline Gardiner: Does the Government still intend to continue with its scheduled list of consultation hui?

Rt Hon. J B BOLGER: The Government has a commitment to complete the four remaining consultation hui so that Maori who wish to make oral submissions---and remember we are told all the time that the Maori tradition is an oral tradition---to the Crown's proposals for the settlement of treaty claims may do so. If invitations are

withdrawn, as occurred in the region of the member for Northern Maori, then of course Ministers will not appear. But the Government wants to complete the discussions.

Tau Henare: As the Government cannot give away its fiscal envelope proposals because it does not want to be shamed into it, is it prepared to sit down with Maoridom and have discussions without preconditions on those proposals?

Rt Hon. J B BOLGER: The Government will sit down on behalf of all New Zealanders, both those who have a claim and those who have to respond to the claim. The Government has put its proposals on the table.

Tau Henare: Without preconditions?

Rt Hon. J B BOLGER: There are no preconditions. The simple fact is that the Government's invitation is to Maori. If Maori have a claim, they should talk to the negotiators. The Government has not asked Maori to accept \$1 billion or any other figure. The Government has said that it is prepared to vote \$1 billion over a number of years to the Crown's negotiators to negotiate with Maori. If Maori have a claim, the Government is saying that they should talk to us and see whether it can be resolved. That is a very fair and genuine offer.

**14 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6050**

**Answers to Oral Questions – Moutoa Gardens**

Moutoa Gardens

4. Hon. K T WETERE (Western Maori) to the Prime Minister: Will he urge all parties involved in the current impasse over the Moutoa Gardens to use the Waitangi Tribunal process to reach a settlement; if not, why not?

Rt Hon. J B BOLGER (Prime Minister): There is already a claim before the Waitangi Tribunal under Wai 167 by the Whanganui River Maori Trust Board, which includes the Moutoa Gardens. It is clearly appropriate that the Waitangi Tribunal procedures be followed and the sit-in brought to an end. I have some sympathy with the problem faced by the city council because it has, I think, endeavoured to be constructive in reaching an agreement with those who are sitting in the gardens but thus far it has been rebuffed.

Hon. K T Weterere: Is the Prime Minister not aware that the city council has rejected a claim by the people sitting in Moutoa Gardens not to enter into any discussions until such time as they are passed, and, conversely, that the people at Moutoa Gardens have not agreed to consult with the council unless the councillors and the mayor come to the gardens?

Rt Hon. J B BOLGER: That sounds something like a stand-off, which cannot be resolved in this Parliament. We cannot have councils or other bodies in authority forced into a position by some group or other sitting on a spot in the city and saying: ``We'll stay here and you'll come and talk to us." That is an invitation to disorder, and I think the front bench of the Labour Opposition knows it.

I believe that at a time when the Government, and I hope the Opposition, are genuine in wanting to resolve old claims, for groups of Maori to take over gardens like that and effectively throw other New Zealanders out is totally damaging their credibility. Can I say further, the group that is under greatest pressure in my judgment is the traditional leadership of Maori---it either is going to reclaim its mandate to negotiate with councils and the Government or it will



have lost it to the protesters.

Tony Ryall: What progress has the Waitangi Tribunal made on claim Wai 167?

Rt Hon. J B BOLGER: I am advised that submissions have been completed on Wai 167 and the tribunal findings are due to be reported in the second half of the year. So it is not something in the never-never. It would seem to me that the group sitting in the gardens would be well advised to go back to their homes and wait for the tribunal's findings to be delivered rather than to prejudge them or to force it into some other conclusion.

**14 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, pp6074-6088**  
**Debate – Moutoa Gardens, Wanganui**

Debate contains cursory references to the Tribunal, mostly by members saying that this is the appropriate means of resolution. Several members noted that the area was the subject of a claim before the Tribunal.

*Helen Clark* on the Whanganui claim –

Earlier today, in response to a question in the House about whether the Government would encourage those involved in the occupation at the gardens to use the tribunal, the Prime Minister stated that the matter was the subject of a claim to the tribunal at the moment. My office has been in contact with the tribunal and we now have a copy of claim Wai 167, which has been before it. There is no specific reference in that claim to these gardens---none whatsoever.

Hon. D A M Graham: Exactly.

Rt Hon. HELEN CLARK: The member says ``exactly''. We were told that the issue was covered in the claim. There is no specific reference to the gardens in the claim, and if the member had done any basic research he would have seen that the position being taken by some in the occupation party is that the gardens are not part of the claim for the Whanganui River and adjoining land, and they say: ``Who do we claim against? We say it was never out of our hands.'' So it is specifically not part of the claim. Further, I understand that when submissions were heard on the claim last year no evidence whatsoever was given about the subject of these particular gardens.

Rt Hon. J B Bolger: Whose fault?

Rt Hon. HELEN CLARK: I am not saying it is anybody's fault, but the Prime Minister specifically told the House the matter was covered in the claim. The claimants say it was not covered and there is no reference to it in the claim. What I am saying is that a way forward now is for the protesters to withdraw and for a specific claim to be lodged and to be given priority. That is a way through this issue---not smugly to sit there and claim that the matter is being deliberated on. It has not and no evidence has been offered to the tribunal on the subject.

*D Graham (Min of Treaty Negotiations)* in response to Helen Clark states –

Nor do I accept the suggestion by the Leader of the Opposition that the claim before the Waitangi Tribunal at the present time does not include the gardens. The claim relates to the river and the environs of the river. If the claimant group---the Whanganui River Maori Trust Board---does not advance a specific claim about these particular gardens, perhaps it has concluded that

the claim has no merit. I do not know. It is certainly for the plaintiff to decide which points he or she wants to argue. It is not for the Crown to try to anticipate what the claimant, the Maori trust board, wishes to advance.

That matter is being debated before the tribunal. It is part Heard. The decision and recommendations are likely to be received soon.

Quotes the Orakei report of the Tribunal on the matter of unlawful protest –

I want to say this about taking the law into one's own hands. This is not the first time but I hope it will be the last time. I suspect there will be others. I am sorry if that is so. In the Orakei case before the Waitangi Tribunal, members may recall that the tribunal itself condemned unlawful action by the protesters. In that decision the Waitangi Tribunal said: ``The protests in this case we find were unlawful. Unlawful because they each involved a trespass. We come therefore to the conclusion that while there is nothing inconsistent with the treaty that the claimants and others should have demonstrated to protest the failure of the Government to redress Ngati Whatua losses, it is inconsistent with the treaty that such demonstrations should have been made unlawful through acts of trespass. To put it in a nutshell: it was not the Crown that was in breach of the treaty in taking steps to end or prevent illegal trespasses, but the protesters for effecting a trespass." Those are wise words of the Waitangi Tribunal. These protesters should harken to them.

*Jill Pettis* says that the Tribunal was set up to avoid the kind of conflict occurring in Wanganui, which comes when grievances are allowed to fester.

*John Luxton (Min of Maori Affairs)* says that if a claim is lodged for disputed areas with Tribunal, the Government will ensure the quick passage of a hearing through the Tribunal.

*Tau Henare* proposes that he and specific other members mediate with the Wanganui protesters on the condition that the Government instructs the Waitangi Tribunal to hear an emergency claim on the Moutoa Gardens issue. Min of Maori Affairs expresses agreeance with proposal.

**15 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6125**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi--Fiscal Envelope

1. Hon. DAVID CAYGILL (Deputy Leader of the Opposition) to the Prime Minister: Do the statements of the Minister of Justice this morning that if the fiscal envelope is ``rejected all the time I suspect some of my colleagues might be encouraged to say, oh well we'll spend it somewhere else....And if I haven't got any money I can't settle anything.", mean that the Government is considering making no money available at all for treaty settlements; if not, what do they mean?

Rt Hon. J B BOLGER (Prime Minister): The Minister was reflecting on the realities as they exist, which are if Maori do not wish to sit down and negotiate claim by claim, then there will be no purpose in voting large sums of money to the Office of Treaty Settlements because there would be no negotiations between Crown and claimant. I would have thought it was self-evident.

Hon. David Caygill: Can the Prime Minister not see that Maori are

indeed quite willing to sit down and negotiate claim by claim, as Tainui for example have done; they simply reject the context, which is to say the envelope---

Hon. D A M Graham: So does Tainui.

Hon. David Caygill: Yes, indeed. Can I start again since none of these interjections seem to me to comply with the Standing Order that states that questions should be asked without interjection. Can the Prime Minister not see that Maori are perfectly willing to negotiate claim by claim; they simply reject the fiscal envelope framework that the Government insists those negotiations must be subject to?

Rt Hon. J B BOLGER: As we know in this House, and as was alluded to by way of interjection, claims are being settled---very substantial ones---by those who reject the fiscal envelope, as the member terms it. The Government has determined that it will commit a sum of \$1 billion over a period of years to the Minister and to the Minister's staff and office to negotiate claims. The Labour Party may disagree or Maori may disagree with the sum of \$1 billion. If the Labour Party wants to negotiate on no limit, then let it say so. The Government is saying, and it is not asking the Labour Party to agree---nor is it asking Maori to agree---that it is committed to advance claim settlement by voting \$1 billion to that purpose. If Maori want to resolve their claim, they should please come and sit down and talk to us.

Roger Sowry: Have Maori withdrawn from the process of treaty negotiations currently under way?

Rt Hon. J B BOLGER: No. At the end of February, 460 claims were lodged with the Waitangi Tribunal. Since the consultation hui began in mid-February, the Government has received a number of requests from tribes wishing to move their claims forward on to the negotiating programme. A number of tribes are currently negotiating with the Crown inside this programme, and they can be assured that the Crown will not withdraw from the process. The point of the Government's overall policy is to create certainty about the Crown's commitment so that others over time will join them. But ultimately that decision lies in the claimants' hands.

**15 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6126**  
**Answers to Oral Questions - Treaty of Waitangi – National Hui**

Treaty of Waitangi---National Hui

2. DAVID CARTER (Selwyn) to the Minister in Charge of Treaty of Waitangi Negotiations: Does the Government intend to hold a national hui on the Treaty of Waitangi settlement package?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): No decision has yet been made on when or if a national hui will be held.

David Carter: Did the Government initially specify a date for the national hui?

Hon. D A M GRAHAM: No, the regional hui were worked through quite carefully and the dates and locations set. No date was set for any national hui that might have followed at the end of them. A national hui may or may not proceed.

Hon. David Caygill: If a national hui is held will it be allowed, and, indeed, encouraged by this Government to consider alternatives to the fiscal envelope?

Hon. D A M GRAHAM: I am anxious to hear any intelligent comment

from anybody on the whole issue.

**15 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6135**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

14. CLEM SIMICH (Tamaki) to the Minister in charge of Treaty of Waitangi Negotiations: Has he received any indication that claimants have no wish to negotiate their claims in the light of the settlement proposals released by the Government in December 1994?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: No. To date no claimant group has withdrawn from negotiations on the basis of the Government's general policy proposals.

**16 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6204**

**Answers to Oral Questions – Waitangi Tribunal – Wanganui Claim**

Waitangi Tribunal---Wanganui Claim

3. ERIC ROY (Awarua) to the Minister of Justice: What reports, if any, has he received on the progress of the current Wanganui claim (Wai 167) with the Waitangi Tribunal?

Hon. D A M GRAHAM (Minister of Justice): The Waitangi Tribunal completed hearings on the river aspect of the Wanganui claim, Wai 167, in September 1994. Its report is expected in May 1995. The lands aspect of the Wanganui claim is not at present scheduled for hearing by the Waitangi Tribunal before July 1995. Research is under way by the claimants and it is uncertain when this part of the claim will be ready for hearing. The claim has been the subject of direct negotiation with the Crown. On the release of the report from the Waitangi Tribunal, negotiations are expected to resume on the river aspects of the claim and on the completion and consideration of the claimants' research into the lands aspects of the claim.

Eric Roy: In the light of the report you have received, do you see the statement made by the member for Northern Maori that---

Hon. Winston Peters: I raise a point of order, Mr Speaker. The question raised by the member for Awarua involves your being involved in the answer. He used the word ``you" and he may not.

Mr SPEAKER: That is correct, but I regard it as pedantry to intervene on every occasion that members use it.

Eric Roy: Does he have any reports on the helpfulness or otherwise of the comments made by the member for Northern Maori that ``Protesting is the only avenue left open to us to get some justice.", and that ``Theft is theft."?

Hon. D A M GRAHAM: I am not sure whether the people who are occupying the gardens at the moment are the same people who are pursuing the claim before the Waitangi Tribunal. But if they are not, there is nothing to stop them from filing a claim, as the Whanganui River Maori Trust Board has, and having it heard. There is no necessity to take some of the actions that I think they are.

Hon. David Caygill: Can the Minister confirm that, contrary to the assertion of the Prime Minister in the House earlier this week that the claim referred to, number Wai 167, covers the Moutoa Gardens, there is no direct reference in that claim to that particular piece of land?

Hon. D A M GRAHAM: My advice from the tribunal staff is that the

river claim in fact includes the river banks. As the gardens are part of the banks, one would expect the claim to include that as well.

Tau Henare: Will the Government act on any recommendations of the Waitangi Tribunal, or will it file them in the rubbish like so often before?

Hon. D A M GRAHAM: All the recommendations of the Waitangi Tribunal are given every consideration. Many of them are carried out. Many of them are considered and deferred. Only a few are rejected.

**21 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6265**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

1. Rt Hon. HELEN CLARK (Leader of the Opposition) to the Prime Minister: Does he stand by his statement with respect to the Government's promotion of its fiscal envelope policy that "I don't believe there's been a great deal of damage if any at all"; if so, why?

Rt Hon. J B BOLGER (Prime Minister): I stand by my statement in respect of the Government's promotion of the Treaty of Waitangi claims settlement proposals. The Government's position is that the fairest way to proceed with Maori claims is to make sure that the parameters of the negotiating framework are clear, first and foremost to the claimants but also to the rest of New Zealand.

Rt Hon. Helen Clark: Given that near universal rejection of the fiscal envelope by Maoridom, and the destabilising incidents of recent weeks have failed to persuade the Prime Minister that the policy has done any damage, can he tell the House just what evidence he does require to know that damage has been done?

Rt Hon. J B BOLGER: The evidence I have is that people want to discuss their claims with the Government and seek settlement. That is the evidence I have, and that is the most optimistic thing I can put before the House. I just say to the leader of the Labour Party that trying to make political capital out of this will not work.

Ian Revell: Does the Government remain committed to the settlement of Maori claims?

Opposition Members: Oh!

Rt Hon. J B BOLGER: The question may look straightforward, but perhaps it is necessary to restate it for the benefit of Opposition members. The answer to the honourable member's question is yes. The Government is committed to resolve Maori claims. That is why we put a settlement package before the nation, but particularly before the claimants---to make progress. It is also why my colleague the Minister in charge of Treaty of Waitangi Negotiations has been negotiating with some of the larger claimants---to make progress. We are committed to resolving claims that are laid under the Treaty of Waitangi. We will continue to seek to make progress, and I am absolutely confident we will make progress.

Sandra Lee: In view of the Prime Minister's reply, is he prepared to remove the fiscal envelope cap and allow the sum specified to be used for settlements as payment in progress?

Rt Hon. J B BOLGER: I am not quite certain that I understand the member's question, but I think she is suggesting that the settlement should be much larger than \$1 billion---and she nods her head. If so, then I invite the honourable member to---

Sandra Lee: I raise a point of order, Mr Speaker. If the Prime

Minister did not hear the question, I am happy to repeat it.

Rt Hon. J B BOLGER: As I said in my answer to the substantive question, it is fair to New Zealand and to the claimants to add some parameters within which to negotiate a settlement. To go through a negotiation with no parameters is to invite failure. How could anybody negotiate? The Labour Party is in the same position. It says ``No cap." Then the question is put to it: ``Does that mean it is unlimited?". It says: ``No, it is not unlimited but we won't tell you how much." That is a nonsense.

**21 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6269**

**Answers to Oral Questions - Treaty of Waitangi – Tainui Settlement**

Treaty of Waitangi---Tainui Settlement

1. Hon DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister in charge of Treaty of Waitangi Negotiations: On what basis did the Government conclude that Tainui should receive 17 percent of the total value of the redress set aside for the settlement of historical claims under the Treaty of Waitangi?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Crown's offer is based on a political judgment of what was necessary to redress the claimants' sense of grievance and result in a durable settlement, balanced by what it thought was affordable to the Government.

Hon. David Caygill: If that answer simply explains how the Government came up with the amount of money involved, why was it necessary to record in the proposed deed of settlement that that amount bears a certain proportion of the total amount available in the so-called fiscal envelope?

Hon. D A M GRAHAM: It was not necessary for Tainui to enter into the negotiations or to sign the heads of agreement acknowledging in any way the correctness of the amount the Government has set aside for Crown negotiators over a period of years to settle claims. However, when Tainui was reaching the conclusion of whether it would accept the Crown's offer, it needed to know that if the Crown were to increase that amount---in other words the total amount made available---then it would proportionately share in any such increase. That seems eminently sensible.

Hon. Rob Storey: Was Tainui required to accept the total value of redress set aside by the Government for the settlement of claims?

Hon. D A M GRAHAM: Tainui was not required to accept the fiscal envelope, as it has come to be known, in any way. It had to know the amount the Crown had put aside; it had then to judge whether the offer that was being made was fair. It is only fair to Tainui that if subsequently, having acted on that presumption and on that premise, further funds are made available by subsequent Governments, it is then entitled to have another look at the settlement.

Tau Henare: Is any part of the heads of agreement that was signed between the Crown and the Tainui people under renegotiation?

Hon. D A M GRAHAM: No, I do not think any item is under renegotiation. There was a firming up of the schedules of the land to be returned, and some negotiation on the detail of that, but the basic agreement that was reached is still in place, as I understand it, and moving to a deed of settlement.

**23 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 546, p6367**

**Answers to Oral Questions – Moutoa Gardens**

### Moutoa Gardens

1. Rt Hon. HELEN CLARK (Leader of the Opposition) to the Prime Minister: Will the Government act to defuse the situation at Moutoa Gardens; if not, why not?

Rt Hon. DON McKINNON (Acting Prime Minister): The Government is certainly concerned about the situation at Moutoa Gardens. However, it continues to be the Government's view that it is currently a matter for the appropriate local authority to deal with.

Rt Hon. Helen Clark: Given the likely escalation of the dispute following the protesters' call to their networks to come and join them at the gardens, is the Government prepared to accept the request made to it by the member for Western Maori to join him in finding a durable solution; if not, why not?

Rt Hon. DON McKINNON: The Government is certainly conscious that an issue like this can escalate, and there is no question that we are listening carefully to the comments made by those involved, especially the Mayor of Wanganui. I understand that the meeting the Prime Minister, the member for Western Maori, and the member for Wanganui held yesterday did not come to any conclusion about what specific proposal or action the Government could take right now, apart from continuing to monitor activities very closely.

Rt Hon. Helen Clark: Is the Acting Prime Minister aware that the member for Western Maori has today written to the Minister of Maori Affairs asking him whether he would be prepared to use the appropriate section of the Maori Land Act to set aside the gardens as a Maori reservation; if not, what is the response?

Rt Hon. DON McKINNON: I have looked at the letter from the member Western Maori, who I know is very concerned about this issue, but I am informed that because the gardens are neither Crown land nor Maori land---do not have that significance---they cannot be taken into account under the Te Ture Whenua Maori Act.

**28 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p6431**

### **Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

#### Treaty of Waitangi---Fiscal Envelope

1. ALEC NEILL (Waitaki) to the Minister in charge of Treaty of Waitangi Negotiations: In light of the hui on the Crown proposals for the settlement of Treaty of Waitangi claims, what action will the Government now take to progress the settlement of claims?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Government needs time to reflect on the views expressed by Maori at the treaty settlement envelope consultation hui. It needs also to digest the views expressed in the written submissions on the settlement envelope, which can be made until 31 August 1995.

Alec Neill: In the light of the rejection of the fiscal envelope by Maori throughout New Zealand, what option is the Government considering as the next stage?

Hon. D A M GRAHAM: The rejection of the fiscal envelope, if accepted literally, would mean that the Government has no money to settle any claims. Obviously that is not the desire of Maoridom, so we will not be doing that. However, there are various ways forward and I would want to consult my colleagues and various Maori people

before we decide what to do.

Hon. David Caygill: Will the Government continue to insist that all claims must be settled within an overall envelope of \$1 billion?

Hon. D A M GRAHAM: The \$1 billion is the amount that the Government has set aside over the next 10 years. Whether all, three-quarters, or half of that amount is spent on the settlement of claims will depend on how many negotiations proceed and how many reach a settlement.

**28 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p6433**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

4. Hon. DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister in charge of Treaty of Waitangi Negotiations: Given his responses yesterday to propositions in relation to the fiscal envelope that he regrets the word envelope, wishes he had never invented it, regrets the cap, and would give the exercise a "four out of ten"; when will he formally abandon the fiscal envelope policy?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): I will not take any precipitate action over the future of the fiscal envelope. The Government intends to address both the opinions expressed at the consultation hui and the written submissions due by 31 August. Any other action would be premature and prejudice consultation with Maori on the appropriate way forward.

Hon. David Caygill: Does the Minister deny that he himself has recently taken to describing the envelope as if it were not ever anything more than an amount of money voted over a number of years and not ever an actual cap on settlements, and will he admit that the Government has in fact been trying to abandon the cap element without being blamed for having embarrassed itself and divided the country?

Hon. D A M GRAHAM: No.

Tau Henare: Was the decision to drop the Crown's treaty settlement proposals a Cabinet one or a Treasury one?

Hon. D A M GRAHAM: We have not agreed to drop them at all.

Pauline Gardiner: Does the Government intend to set aside the cap of \$1 billion in order objectively to consider alternative submissions and options from tribes?

Hon. D A M GRAHAM: There are two different things there, but the Government has decided to set aside the \$1 billion in the 10-year period. That decision was made and still stands, and all the other issues in the booklets are up for review in the light of the submissions we receive.

**29 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p6471**

**Answers to Oral Questions - Waitangi Tribunal**

Waitangi Tribunal

3. Hon. DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister of Justice: In the light of recent statements by the Chief Judge of the Waitangi Tribunal that "sufficient resources have not been provided (to the Tribunal) and although there has been a recent budget increase, the Tribunal's other requests for further funding have not been agreed to" and that "much more research...and many more hearings of cases would now be in progress, or would long



since have been reported, but for this limitation."; what action is the Government prepared to take to ensure that claimants have to wait no longer to be heard by this tribunal than by any other court or tribunal?

Hon. D A M GRAHAM (Minister of Justice): It is not possible to compare the time it takes to obtain a hearing before the Waitangi Tribunal with that of other courts and tribunals because of the very substantial amount of research that must be done before the claim is ready for a hearing. Much of the claimant research is, of necessity, traditional history that can be carried out only by the claimants rather than by funded research historians. This tends to take a considerable amount of time. In a number of claims there are often other competing claims from other iwi, and, while the main claimant group may be ready for a hearing, delays often result from the lack of readiness of the competing claimant groups.

Hon. David Caygill: Why has the Government abandoned the commitment that was given by the previous Government on 20 July 1989 in the agreement it entered into then with the New Zealand Maori Council and the Federation of Maori Authorities that: "The Crown and Maori agree that they will jointly use their best endeavours to enable the Waitangi Tribunal to identify and process all claims relating to forestry lands and to make recommendations within the shortest reasonable period."?

Hon. D A M GRAHAM: The honourable member might be aware that we increased the funding for the Waitangi Tribunal by 33.8 percent in the last financial year. He may also be aware that there was quite a backlog of jury trials waiting for a hearing in the District Court when many people are held in custody pending their trial. In those circumstances the amount made available to the Waitangi Tribunal fulfils the undertaking given.

Clem Simich: Did the Waitangi Tribunal receive an increase in funding for the 1994-95 year; if so, how much was it in money terms, given that the Opposition would have difficulty working out a percentage?

Hon. D A M GRAHAM: The increase in funding made directly to the tribunal itself was \$900,000 in the financial year. It ought not to be overlooked that the Crown also makes money available for research, and of course is responsible for the payment of Crown counsel fees as well.

### **30 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p6550**

#### **Answers to Oral Questions – Moutoa Gardens**

##### Moutoa Gardens

6. Hon. K T WETERE (Western Maori) to the Prime Minister: In the light of the latest incidents at Moutoa Gardens, will the Government now take a lead in seeking a peaceful resolution of the issue?

Rt Hon. DON McKINNON (Acting Prime Minister): First, let me thank the member for Western Maori for keeping me informed about the dialogue that he has been having in that area. I know that this is a very tense time and I certainly urge people to remain calm. The Government will not and cannot dictate to the council what it should and should not do. I understand that the council is taking court action, probably this afternoon, and that is an entirely appropriate action for it to take. The Government certainly supports the peaceful

resolution of the situation but will ensure that the rule of law is upheld.

Hon. K T Wetere: In view of that reply, will the Acting Prime Minister accept my offer to work with him in seeking a resolution?

Rt Hon. DON McKINNON: I am very happy to continue having dialogue with the member for Western Maori---

Rt Hon. Helen Clark: No, no---work with him.

Rt Hon. DON McKINNON: I do not mind what it is called, and I am sure the member for Western Maori does not mind what it is called. It is very obvious to anyone who is watching the situation today that it is a delicate situation. We do want to see a peaceful resolution, and senior politicians such as the member for Western Maori can, of course, play a very positive part.

Tony Ryall: What engagements has the Government had with those involved?

Rt Hon. DON McKINNON: The Government has kept up a pretty regular contact through the Minister of Maori Affairs---who is also the Minister of Police---and with the council. We have heard from elements of Maori within the reserve area. The Minister of Social Welfare, who is the local member, has also had dialogue with the council, and as a result of that I believe that the Government is fully informed on what is happening at present, it supports the action of the council, and it will continue to uphold the rule of law.

**30 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p6555**

**Answers to Oral Questions - Treaty of Waitangi – Fiscal Envelope**

Treaty of Waitangi---Fiscal Envelope

8. PAULINE GARDINER (Wellington-Karori), on behalf of DAVID CARTER (Selwyn), to the Minister in charge of Treaty of Waitangi Negotiations: Since the announcement of the fiscal envelope proposals, how many separate treaty claim negotiations have been requested by Maori?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): Twenty-two as at 29 March.

Pauline Gardiner: What was the source of those claims, in general?

Hon. D A M GRAHAM: I do not have the details of who the claimants all are---some claims are in writing, some were telephoned to the office---but I find it quite encouraging that they wish to continue negotiations.

Hon. David Caygill: Is the Government taking any action to review the adequacy of resources available to the tribunal, in the light of the recent memorandum of the Chief Judge of the Waitangi Tribunal, to ensure it is in a position to respond promptly to such claims?

Hon. D A M GRAHAM: These claimants are seeking direct negotiation with the Crown, so they would not be affected by any increased funding of the tribunal.

**5 Apr, Hansard Question Supplement Vol 20, p2782**

**Written Question 2127**

TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: Of the claims before the Waitangi Tribunal, has he made any enquiries to determine the monetary value of each of those claims on an individual basis; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister in Charge of Treaty of Waitangi Negotiations) replied: In deciding the amount to be set aside for settling claims, the Crown did not attempt to determine the monetary value of each claim. Instead, it made a political decision on the amount, which balanced the need to redress proven claims in a fair and honourable way against the many other demands on the public purse.

**5 Apr, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p6705**  
**Answers to Oral Questions - Waitangi Tribunal – Ngai Tahu**

Waitangi Tribunal---Ngai Tahu

15. Hon DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister of Justice: In the light of the Waitangi Tribunal's recent advice to Ngai Tahu that ``as a full hearing of the Ngai Tahu claim on relief will seriously affect the allocation of resources to other claims pending or in hearing, the hearing of the Ngai Tahu claim should proceed through limited stages only at this time'', does he intend to act on the Crown's commitment of 20 July 1989 to ``use [its] best endeavours to enable the Waitangi Tribunal to identify and process all claims relating to forestry lands and to make recommendations within the shortest reasonable period''?

Hon. D A M GRAHAM (Minister of Justice) replied: The Waitangi Tribunal is an independent body best described as a permanent commission of inquiry, which itself determines its hearing programme within the confines of its budget. Any priority to be given to forestry claims is for the tribunal to decide. Recognising the current workload, the Government increased funding to the tribunal by 33 percent last year.

**31 May, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p6913**  
**Answers to Oral Questions – Maori Sovereignty**

Maori Sovereignty

4. TREVOR ROGERS (Howick) to the Prime Minister: In the light of Labour Vice-President Dover Samuels' reported statement that Maori sovereignty was an issue that had to be dealt with, what action, if any, does he intend to take?

Rt Hon. J B BOLGER (Prime Minister): I have noted that the Labour Party proposes regional hui on Maori sovereignty. I disagree with that proposal, and in the light of the considerable public confusion that exists about the legal and constitutional meaning of the terms ``sovereignty'' and ``self-determination'', I have stated that we do not recognise the right of any group of New Zealanders, Maori or otherwise, to determine their destiny regardless of the State of which they are a part.

The Government will not entertain any division of sovereignty of Parliament, nor substantive power-sharing of a kind that would involve a Maori Parliament or a separate legal or taxation system. We do not believe that the Treaty of Waitangi sanctions the notion of Maori sovereignty arising from self-determination; this would be secession---the assumption of sovereign powers by a body that

separates from the existing State. The treaty emphasises partnership, not secession. I commend the above to all political parties, including Labour, which appeared to be supporting Maori sovereignty at its recent conference.

Trevor Rogers: Does that statement rule out any discussions or dialogue with Maori on the concept of greater self-management?

Rt Hon. J B BOLGER: No, it does not. I have said that the Government is ready and willing to hear the considered views of Maori leaders in appropriate circumstances. I have raised for their consideration three possible areas of discussion: whether there are matters over which Maori could and should exercise greater self-management with the consent of Parliament; whether there are areas in which the State could sanction co-management arrangements when Maori tribes, for example, had a different degree of say in targeting resources for their people; and whether when the State retains sovereign power, new and better ways can be found by which Maori are able to have their voices heard and heeded when Government is forming its policies for Maori as citizens of New Zealand. Again I say to my colleague, I commend that approach to other political parties as well.

Hon. David Caygill: Is the Prime Minister saying that the Government is perfectly prepared to discuss this matter so long as those it discusses it with already agree with the Prime Minister, or is it possible to have a differing view and still get the opportunity to discuss this matter with the Government?

Rt Hon. J B BOLGER: If the differing view is that we will have Maori sovereignty in New Zealand, the answer is no. We are not prepared to debate the matters of separate Maori sovereignty and independent organisations exercising sovereign powers within New Zealand. We say that quite firmly to the Labour Party and to the New Zealand First Party, who have also been playing with ideas. Quite simply, as Donna Awatere said in this morning's Dominion: "Such a proposal is not supported by 99 percent of New Zealanders.", and she is right. Why the Labour Party should encourage such divisive notions, I have no idea.

Hon. Winston Peters: What is the Prime Minister's understanding of the difference or the similarity between the concepts of tu tangata advocated by a National Party under a former Prime Minister, and tino rangatiratanga and sovereignty?

Rt Hon. J B BOLGER: I invite the honourable member to give his own description. All I can say is that one can ask a number of Maori leaders for their definition of tino rangatiratanga and one will get different interpretations. Tu tangata is to stand tall, as I would have thought the honourable member from Tauranga would know, but then he is not as tall as all that is he.

**7 Jun, Hansard Question Supplement Vol 20, p3000**  
**Written Question 2935**

Hon K T WETERE (Western Maori) to the Minister of Justice:  
What is the budgeted allocation for the Waitangi Tribunal for the 1995-96 financial year compared with the past 2 years, and what is the breakdown for each year in administrative costs, research costs, and meetings?

ANSWER :

Hon D A M GRAHAM (Minister of Justice) replied:

Waitangi Tribunal Budget Allocation

	Administration	Research	Hearings	
Total Budget for the Year				
\$	\$	\$	\$	
1993-94	2,546,000	1,375,000	746,000	425,000
1994-95	3,408,000	1,554,000	1,394,000	460,000
1995-96	3,348,000	1,581,100	1,035,200	731,700

The allocation for 1995-96 is provisional at this stage and is subject to confirmation.

**7 Jun, Hansard Question Supplement Vol 20, p3030**  
**Written Question 2990**

Hon K T WETERE (Western Maori) to the Speaker: Has the Office of the Clerk developed a responsiveness policy to the Treaty of Waitangi; if not, why not; if so, what are the details?

ANSWER :

Mr SPEAKER replied: The Office of the Clerk is not generally an initiator of policy or an implementer of the Government's policies. As a result it does not have a significant direct contribution to make to the partnership between Maori and the Crown under the Treaty of Waitangi. However, the Office has supported its Maori staff in the process of expediting claims under the Treaty, through a secondment to assist an iwi runanga carry out research claims and through granting staff special leave to attend Maori Land Court and Waitangi Tribunal hearings. The Office seeks to recognise the aims and aspirations of Maori through its recruitment and training policies. All staff are given the opportunity to develop their knowledge of tikanga Maori, the principles of the Treaty of Waitangi, Maori consultation processes, and marae and meeting protocols and their implications for proceedings in **Parliament**. The Office also contributes to the achievement of a Maori input into the political process, in particular through initiatives such as the publication of information booklets in Maori.

**8 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 547, p7192**  
**Answers to Oral Questions - Fiscal Envelope – Maori Development Corporation**

Fiscal Envelope---Maori Development Corporation

7. Hon. K T WETERE (Western Maori) to the Prime Minister: Has the Government decided to include its 49 percent stake in the Maori Development Corporation in the fiscal envelope; if so, why?

Rt Hon. J B BOLGER (Prime Minister): No.

Hon. K T Weterere: Given the Prime Minister's answer to that question and given the great amount of interest in this matter, particularly when the Minister of Finance announced some time ago the Crown having to dispose of its interest in the Maori Development Corporation, can the Prime Minister then tell the House and the public when it intends to make a decision?

Rt Hon. J B BOLGER: Since the recent events surrounding the Maori

Development Corporation we are reviewing our position.

Tony Ryall: Would the Prime Minister advise what information he has on the present state of the Maori Development Corporation since the attempted takeover by Taharoa C in April this year?

Rt Hon. J B BOLGER: I am pleased to say that with the full co-operation of all shareholders, including Taharoa C, the Maori Development Corporation has returned to the position that was enjoyed prior to the attempted coup.

Hon. Winston Peters: Having regard to the Government's shareholdership in the Maori Development Corporation, has the Minister of Maori Affairs reported to the Prime Minister his disquiet or happiness with the Maori Development Corporation and some of its recent transactions, dealings, and financial accounts?

Rt Hon. J B BOLGER: I suggest that the honourable member put that question down for the Minister of Maori Affairs.

**20 Jun, Hansard Question Supplement Vol 21, p3140**  
**Written Question 3377**

Hon ROB STOREY (Waikato) to the Minister for State Owned Enterprises: Further to his reply to question for oral answer No. 14 (15 June 1995), who were the owners of property acquired under the Public Works Act, and were those owners offered their land back as required by the Public Works Act; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: Prior to any transfer of land out of ECNZ's ownership, in the ordinary course of land disposal, a section 40 investigation would be carried out under the terms of the Public Works Act 1981. Only if the Commissioner of Crown Lands so determined, in accordance with that Act, would an "offer back", giving the former owner(s) of their successor(s) the opportunity to buy back the land, be made. In the event that any land was ordered to be transferred from ECNZ to Maori pursuant to a binding recommendation of the Waitangi Tribunal under s8A(5) of the Treaty of Waitangi Act 1975, the transfer would take place without a section 40 investigation. The transfer of land from ECNZ to Waikato-Tainui pursuant to the recent Treaty claims settlement, will be treated, on passage of the enacting legislation, as if it was a transfer pursuant to s8A(5) of the Treaty of Waitangi Act. At this point in time, no land has transferred out of ECNZ's ownership pursuant to the settlement with Waikato-Tainui. None will do so until the passage of the enacting legislation. Therefore, as no section 40 investigations have been conducted, I am unable to advise you who are the former owners, or successors, of the ECNZ properties in question and whether or not they have been offered back any land. Furthermore, because section 40 investigations are not proposed to take place in respect of State-owned enterprise land subject to resumption, the former owners or successors of the land in question are not expected to be identified.

**21 Jun, Hansard Question Supplement Vol 21, p3160**  
**Written Question 3472**

Hon ROB STOREY (Waikato) to the Minister in charge of Treaty of Waitangi Negotiations: Further to question for oral answer No. 14 (15 June 1995), were the owners of property acquired under the Public Works Act offered their land back as required by the Public Works Act; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: No ECNZ property has been purchased yet for transfer to Waikato-Tainui pursuant to the recent Treaty claims settlement between Waikato-Tainui and the Crown. As a consequence, no former owners of ECNZ property have been offered back any land pursuant to the Public Works Act 1981. However, it is proposed that the transfer of ECNZ land, like other State-owned enterprise land, to Waikato-Tainui pursuant to the recent Treaty claims settlement, will be treated, on passage of the enacting legislation, as if it were a transfer pursuant to a binding recommendation of the Waitangi Tribunal under section 8A (5) of the Treaty of Waitangi Act 1975. Therefore no offers back to former owners are envisaged.

**27 Jun, Hansard Question Supplement Vol 21, p3211**  
**Written Question 3654**

Hon ROB STOREY (Waikato) to the Minister in charge of Treaty of Waitangi Negotiations: Was property taken from Mrs Lynette Mudgway at Meremere under the Public Works Act for the purposes of building a potential power station at Meremere and subsequently declared surplus by ECNZ, offered back to Mrs Mudgway before being allocated as part of the Tainui settlement; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: No ECNZ property at Meremere, including Mrs Mudgway's former property, was offered back to former owners under the Public Works Act 1981 before being allocated as part of the Tainui settlement. The Deed of Settlement between Waikato-Tainui and the Crown provides in Clauses 5 and 6 that property allocated to be part of the settlement shall transfer subject to the provisions of section 40 of the Public Works Act 1981. Under the Public Works Act it is only if surplus land is not needed for another public work or for a land exchange under subsection 40 (1), and if the Commissioner of Crown Lands considers subsection 40 (2) is satisfied, that an "offer back" is made to former owners or their successors. However, the Waikato-Tainui Deed of Settlement provides that the transfer of land from ECNZ, and other State owned enterprises, to Waikato-Tainui pursuant to the recent Treaty claims settlement, will be treated, on passage of the enacting legislation, as if it were a transfer pursuant to a binding recommendation of the Waitangi Tribunal under section 8A (5) of the Treaty of Waitangi Act 1975. Therefore no offers back to former owners of State owned enterprise land are envisaged.

**28 Jun, Hansard Question Supplement Vol 21, p3214**

**Written Question 3659**

Hon K T WETERE (Western Maori) to the Minister of Maori Affairs: Can he confirm reports that compensation for owners of Maori reserved land is to be taken out of the fiscal envelope; if so, what is the estimated value?

ANSWER :

Hon JOHN LUXTON (Minister of Maori Affairs) replied: As stated in the 1994 Government decisions booklet on Maori reserved lands, the issue of compensation to owners of reserved lands for past losses may be considered through the Treaty of Waitangi claims process. Accordingly, if any such compensation were to be made through this process, it would be charged against the settlement envelope. There are a number of claims before the Waitangi Tribunal that relate, in whole or in part, to Maori reserved lands. It is impossible at this stage to estimate the level of compensation, if any, that owners of Maori reserved land may receive through the claim settlement process. Compensation for claims relating to Maori reserved land will be considered, along with all other claims, in the context of the settlement envelope. Therefore the level of compensation will depend on a consideration of the individual merits of the claims and the amount available in the settlement envelope for such compensation.

**29 Jun, Hansard Question Supplement Vol 21, p3268**  
**Written Question 3883**

JILL PETTIS (Wanganui) to the Prime Minister: Does the Prime Minister stand by his statement, as quoted in the New Plymouth Daily News of 22 May 1995, that the Government is prepared to consider a further funding increase to the Waitangi Tribunal if it needs more money to carry out its work; if not, why not?

ANSWER :

Rt Hon J B BOLGER (Prime Minister) replied: Yes. Cabinet have called for advice on this matter, and in due course will consider it.

**18 Jul, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 548, p7902**  
**Answers to Oral Questions – Tainui Raupatu Claim, Meremere**

Tainui Raupatu Claim, Meremere

4. Hon. ROB STOREY (Waikato) to the Minister in charge of Treaty of Waitangi Negotiations: Is land at Hampton Downs Road, Meremere, previously owned by Mrs L Mudgway and B and V Riddell and declared surplus by ECNZ, included in the Tainui raupatu settlement; if so, why?

Hon. PAUL EAST (Attorney-General), on behalf of the Minister in charge of Treaty of Waitangi Negotiations: There are a number of parcels of ECNZ land at Meremere that it is proposed will be transferred to Waikato-Tainui pursuant to the raupatu claims settlement. These include land previously owned by Mrs L Mudgway and B and V Riddell. These parcels of land have not been declared surplus



by ECNZ. ECNZ acquired the land for electricity purposes with the intention of building a power-station at Meremere. On disposal to Waikato-Tainui, ECNZ will have a lease-back over the land, and, in the event that a power-station is deemed necessary, it will continue to be able to use the land for electricity purposes consistent with its original taking. The land was included in the raupatu claims settlement because the Government, in an endeavour to settle the Waikato-Tainui raupatu claims on a "land for land" basis, has undertaken to return to Waikato-Tainui as much Crown-controlled land in the claim area as possible.

Hon. Rob Storey: Is the Minister aware that ECNZ has said the preferred site of any future power-station at Meremere will be on the site of the old existing station, and is a decision not to declare the Mudgway and Riddell property surplus simply a stratagem to avoid the offer-back provisions of the Public Works Act, and, if the land is eventually declared surplus, will it still be offered back to the original owners notwithstanding the Tainui settlement?

Hon. PAUL EAST: I am unaware of the view of ECNZ with regard to where the best place is to have a power-station. I am aware that we have a case here really of competing interests. There is State-owned enterprises land with a memorial over it on behalf of Waikato-Tainui. Yet that land was originally taken under the Public Works Act and there are offer-back procedures in that legislation. It seems to me that this is a case that will have to be considered and discussed, and negotiated between the parties.

Hon. David Caygill: Can the Minister confirm that the transfer of this land and the transfer of much other land that is the subject of the Waikato settlement will require parliamentary approval either to set aside section 40 of the Public Works Act or to treat these transfers as if they were being made pursuant to a binding recommendation of the Waitangi Tribunal?

Hon. PAUL EAST: Without wanting to commit the Minister, I would expect that those sorts of provisions would be included in the legislation that he intends to put before the House on the Waikato-Tainui settlement.

**19 Jul, Hansard Question Supplement Vol 21, p3380**  
**Written Question 4277**

MARK BURTON (Tongariro) to the Prime Minister: Given that Cabinet has called for advice on the need for a funding increase to the Waitangi Tribunal, when will Cabinet make a decision on this?

ANSWER :

Rt Hon J B BOLGER (Prime Minister) replied: There has been a considerable focus on questions of how the Waitangi Tribunal functions and how it is resourced in the submissions made by Maori and other interested parties in response to the Crown's Treaty Settlement proposals. The period for submissions ends on 31 August 1995. Cabinet will address the policy issues and options then before making a decision.

**8 Aug, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 549, p8502**  
**Answers to Oral Questions – Land Claims – Compensation**

#### Land Claims---Compensation

2. Hon. ROB STOREY (Waikato) to the Minister in charge of Treaty of Waitangi Negotiations: What advice, if any, has he received on the practicality of paying compensation to property owners, or people with property rights, who are affected by the Crown's settlement with Tainui?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): Property owners affected are Government departments, Crown agencies, and State-owned enterprises, not private citizens. The transfer to Waikato-Tainui of State-owned enterprise land subject to memorials will be as if it were pursuant to a binding recommendation of the Waitangi Tribunal, as such offer-back requirements under section 40 of the Public Works Act are waived. Former owners were fully compensated for the loss of their land at the time it was compulsorily acquired. The full market value compensation paid to former owners for the acquisition of the land reflects the permanence of the alienation.

Hon. Rob Storey: Is it the intention of the Government to compensate former owners of the State-owned enterprise land?

Hon. D A M GRAHAM: I do not think that that is practicable, because some lands will now be motorway and others will have been flooded for hydro-electricity purposes. So to distinguish between those whose lands can never be returned and those whose land might be returned in the future seems inequitable.

Hon. Winston Peters: On the principle that a Government should not seek to correct a wrong by creating another one, surely some compensatory payment could be made, in particular to the six former owners who are making out a right to make a claim?

Hon. D A M GRAHAM: The property right, so-called, that they have was always likely to be defeated by this 1988 amendment, so they have been on notice since then that their property right---if that is what it is---to have the offer-back may well not occur. Indeed, in many of these cases the land is not surplus to the requirements for which it was acquired, anyway. But I say again that full compensation that reflects the permanent alienation of the land has been paid. Many of those lands are never returned and the property right will never be exercised.

Hon. K T Wetere: I understood the Minister to confirm that clause 13(2) of the Waikato-Tainui Raupatu Claims Bill intends to address the issues he has referred to---particularly those relating to the Public Works Act, and to section 40 of that Act in particular---and that, anyway, it is the position of the Bill, as we understand it, that they must be complied with?

Hon. D A M GRAHAM: I did not comprehend that question, but I will give it a go, anyway. Where Crown land is involved, as opposed to State-owned land or forest land subject to memorials, the offer-back procedure will apply. But there is a section in the 1988 statute that states that if the Waitangi Tribunal makes a mandatory recommendation for the return of lands then the section 40 offer-back does not apply any longer.

**14 Sept, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 550, p8929**  
**Answers to Oral Questions – Treaty of Waitangi – Maori Consultation**

Treaty of Waitangi---Maori Consultation

5. ERIC ROY (Awarua) to the Minister in charge of Treaty of Waitangi Negotiations: What action will the Government take to consult Maori in further Treaty of Waitangi settlements?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Government will take whatever action is necessary to consult various Maori claimants to try to effect settlements of claims. The Government has now received submissions on the Crown proposals for the settlement of Treaty of Waitangi claims. The Government proposes that these be the subject of joint review by a Crown-Maori working-party.

Eric Roy: How long will the working-party have to identify the issues arising from these submissions?

Hon. D A M GRAHAM: It is hoped that the working-party will be established by 1 October. It is anticipated it will take about 1 month to complete the task.

Hon. K T Wetere: Bearing in mind the statement from the fiscal envelope proposals, wherein it stated that Maori needed to be properly mandated, is it the Minister's intention to bring in mechanisms that will allow for that process to happen so that Maori people are properly mandated to carry out the consultation process that he is talking about over treaty settlements?

Hon. D A M GRAHAM: In relation to the question of mandating, and the proposals related to the mandating of negotiators for the settlement talks, the Crown has written to Sir Hepi Te Heuheu asking whether he wishes to nominate or arrange for the hui to be held this week and to nominate four Maori to join with the four officials of the Crown to look at these proposals. The submissions on the Crown proposals were released last December. Whether that invitation is accepted remains to be seen.

Tau Henare: Given the Minister's answer to that supplementary question, how does he reconcile this new approach to the one taken by his Government colleagues after the first meeting in Turangi, when that meeting was lambasted by his colleagues?

Hon. D A M GRAHAM: The hui that was held in January was ill-informed, and I said so at the time.

Hon. K T Wetere: No it wasn't.

Hon. D A M GRAHAM: It is a matter of opinion. I am entitled to my opinion, and that member is entitled to his. The hui to be held this weekend has a different context and is at a different time. It seems entirely appropriate for Maori people to be invited to consider the submissions that have been filed, numbering in excess of 500.

#### **19 Sept, Hansard Question Supplement Vol 21, p3949**

#### **Written Question 6359**

TAU HENARE (Northern Maori) to the Minister for Courts: How many claims are presently before the Waitangi Tribunal, and how long will it take for them to be heard?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: There are 546 claims filed with the Waitangi Tribunal. It is not possible to predict at this stage how long it will take to hear the claims currently before the Tribunal. This is because the complexity of claims is not revealed until the claim goes to hearing.

**19 Sept, Hansard Question Supplement Vol 21, p3949**  
**Written Question 6360**

TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: How does the cost of direct negotiation with a claimant group compare with the cost of a claim being heard by the Waitangi Tribunal?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: Costs of processing Treaty claims through both the Waitangi Tribunal and the direct negotiations process vary from claim to claim. In both cases, costs are affected by a number of factors, including the size of claims and the issues they raise. It is not possible to make direct comparisons between the two processes, nor is it meaningful to do so given that they are quite distinct processes designed to cater for different circumstances. In general terms, however, provided requirements for direct negotiations are met, the cost overall is likely to be less when a claim is negotiated directly from the outset, compared with one which is heard by the Waitangi Tribunal prior to direct negotiations.

**19 Sept, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 550, p8987**  
**Answers to Oral Questions – Fiscal Envelope**

Fiscal Envelope

9. TAU HENARE (Northern Maori) to the Minister of Maori Affairs: What role, if any, has he played in moves by the Government to rethink its approach to the "fiscal envelope" and approach Sir Hepi Te Heuheu in that regard?

Hon. JOHN LUXTON (Minister of Maori Affairs): The Government has yet to determine its response to submissions on the Crown's treaty settlement proposals, and will not do so until a full and considered analysis of submissions has been completed. The Government has invited Maori participation in that process. Along with my colleagues, and as Minister of Maori Affairs, I will play my appropriate role in determining the form of the Crown's response. The invitation by the Prime Minister to Sir Hepi to oversee Maori input into the above process had the endorsement of myself and my colleagues. But at the end of the process I doubt there will be a need for any major rethink, as suggested by the member, as many claimants are keen to move forward within the guidelines already circulated.

Tau Henare: Given that the Prime Minister, the Attorney-General, and the Minister of Justice have now all issued a variety of public statements on the Turangi hui without any reference to the Minister of Maori Affairs or his department, does he not consider this snub to be a vote of no confidence in himself and his department by his senior colleagues?

Hon. JOHN LUXTON: The answer is no, and I think it actually portrays that the member for Northern Maori is unaware of the separation of portfolio responsibilities in the Maori area.

Basically, those issues of a historic nature, such as treaty claims, are the responsibility of the Minister in charge of Treaty of Waitangi Negotiations. Matters that look forward and look at Maori development are the responsibility of the Minister of Maori Affairs. I note also that the member for Northern Maori was reported as being present at the Hirangi hui held just recently, and I am told that his most notable contribution was his uncharacteristic silence during the 2 days of the hui.

Tau Henare: I seek leave to table a letter from the Prime Minister to Sir Hepi.

[Document, by leave, laid on the table of the House.]

Clem Simich: Has the Minister had any other reports on this second hui?

Hon. JOHN LUXTON: I have had quite a comprehensive report outlining the hui resolutions, but I have also noted reports from the Speaker of the House, who said that the hui was a waste of time, and a comment from the former member for Northern Maori, Hon. Matiu Rata, who said that the main thrust of the hui, which focused on Maori sovereignty, was nothing but rhetoric. There were a number of other reports, including that only about 500 people were at that hui.

**20 Sept, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 550, p9004**  
**Answers to Oral Questions – Takahue School – Occupation**

**URGENT QUESTION**

**Takahue School---Occupation**

1. TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: Is the Government taking any action over the occupation of Takahue school, in order to prevent any escalation of the current impasse there, and if so, what action is it taking?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Government will consider the return of land that has become surplus, and which was originally gifted to the Crown by Maori for some particular purpose, such as a school or hospital. As far as I am aware, no claimants have formally raised with the Government the contention that the Takahue school was gifted to the Crown. I am having the issue checked by officials. The Takahue school is currently protected in the Muriwhenua land bank, as requested by the Muriwhenua claimants. At the request of both Te Runanga o Muriwhenua and local Maori representatives, I have agreed that the school is to be leased to a community group, at a peppercorn rental, for use as a community facility. In making this arrangement I have complied with the wishes of local Maori in the Takahue and wider Muriwhenua area. Those local Maori have asked for the Crown to secure vacant possession of the site so that community use of the site can proceed.

Tau Henare: Is it not Government policy that land gifted for any purpose, such as a school, is given back to the donors when no longer required for that purpose, so why does the Minister not remove the irritant in this case and simply direct that the land in question be given back; or is the Government trying, for some purpose, to generate conflict?

Hon. D A M GRAHAM: There is a proposition in the booklets that were released last December that lands that had been gifted by Maori would be returned when they were no longer required. Those proposals

seem to have been rejected by Maori---somewhat to my surprise. In this particular case, as I have indicated, no suggestion has been put to the Crown that those lands were gifted. If it subsequently proves to be the case, and if the gifted lands proposals are accepted in some way by Maori, then it is likely those lands would be returned.

**21 Sept, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 550, p9075**

**Answers to Oral Questions – Takahue School – Occupation**

Takahue School---Occupation

5. Hon. WINSTON PETERS (Tauranga), on behalf of TAU HENARE (Northern Maori), to the Minister in charge of Treaty of Waitangi Negotiations: When was the Government first informed about the events leading to the occupation of Takahue School, and when was action first taken in consequence to establish the facts relating to any issues of divestment of the school property back to the former owners according to established policy?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Government was first informed of the occupation on 29 March 1995. The property was a surplus Crown property, which Te Runanga o Muriwhenua had asked to be placed in its land bank for use in a future treaty settlement. The Crown placed the property in the Muriwhenua land bank in compliance with Muriwhenua's express wishes. This action in effect reserved the property for return to the appropriate Maori group within the context of a future treaty settlement.

Hon. Winston Peters: Did the Government send anybody up there after 29 March to establish who or which hapu had made the land available for the school in the first place; if so, why not, because it is those people who have a claim, not any old general, overruling body that makes a claim, whether it be Muriwhenua or not?

Hon. D A M GRAHAM: Only in the last few days and in the newspapers has it been suggested that this land was gifted by Maori. They have never made such a suggestion to the Crown, and if one can believe the newspapers of, I think, this morning or yesterday, they have conceded that they have never raised that it was a gift from Maori people in the last century. In so far as who the proper claimant is, that is one of the more difficult issues that all treaty settlements have to ascertain. All I know is that the people who were there, or some of them at least, were said to be Ngati Kahu, which is one of the five iwi of Muriwhenua. Whether they end up with the land, or somebody else does, will depend on the settlement itself, if there is one.

Clem Simich: What did the Government do after finding out about the occupation?

Hon. D A M GRAHAM: At about the time of the occupation there were negotiations between non-Maori and Maori in that community. They approached the Crown and asked whether, during the time that land was in the land bank, it would be possible for a community trust to be established to rent the land at a peppercorn rental for use by the community. The Government considered that request, and it seemed entirely appropriate. That trust was formed in June, and a lease was prepared subject to vacant occupation. The people negotiating that lease included the occupiers. They have since reneged on the deal. [Interruption] The member for Tauranga can raise another five or six points of order in a moment.

Winston Peters: Go back to ``Remmers".

Mr SPEAKER: I have already brought it to the member's attention twice. I will not do it again. He had an opportunity to ask a question. He should be silent while it is answered.

Hon. D A M GRAHAM: When the occupiers remained in occupation despite those negotiations, which had been successful, as to the use of the building, we were then approached by the Hon. Matiu Rata and others who requested that they be given the time to try to persuade the people to leave peacefully. We were happy to do that. Unfortunately they were not successful in their endeavours, and when that became apparent last week we decided we had only one alternative, and that was to issue a trespass notice.

Sandra Lee: Can the Minister confirm that the Ngati Kahu Te Paatu people, who the Crown originally purchased this block from, form part of the group known as the Muriwhenua claimants?

Hon. D A M GRAHAM: As I understand it the Ngati Kahu people are one of the iwi of Muriwhenua, but I am not saying that all the occupiers who were there were of that iwi. I am not certain who they all were, but certainly Ken Mair for some extraordinary reason was there during the period of the eviction.

**21 Sept, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 550, pp9082-9106**  
**Debate – Urgent Public Matter – Takahue School – Occupation**

See *Transcripts of Debates*, p269

***D Graham (Min of Treaty Negotiations)*** makes passing reference to the Tribunal –

Bear in mind that some 500 claims are before the tribunal. A lot of them are still outstanding. Many of them are the same claim, but there are a whole lot of cross-claims over the same land. So it is not quite as daunting as it sounds. The claims are not all enormous. What are we doing to try to speed up the process? We increased the funding to the tribunal 2 years ago when everybody else's vote was being cut and we have maintained that, notwithstanding. We have a review taking place now of the structures of the tribunal and whether further resources are needed. I have increased the number of staff in the Office of Treaty Settlements. We have had numerous---and I say that advisedly---Cabinet papers on structures and procedures on how we can better do it. We created the protection mechanisms that did not exist before, to try to identify properties that ought not to be sold. We have a large number of properties in the Ngai Tahu land bank, in the Whanganui, in the Whakatohea, and in the Muriwhenua land banks. The other day we decided we would not sell any of the land that was surplus to Crown requirements in the raupatu areas. None!

***D Caygill*** refers to a report of the Controller and Auditor General, and comments made by the Chairman of the Tribunal –

I had hoped that this debate might provide the Minister in charge of Treaty of Waitangi Negotiations with a timely opportunity to indicate how the Government intends to respond to the report of the Controller and Auditor-General. It is a very clear, very moderate, and very reasonable warning. It states: ``This programme is a muddle. It is hard to tell how much money is available where. It is hard to tell which information is available where." and ``There is no formally established officials committee to assist in the transfer of

information and development of integrated policy advice. The protection mechanism, whereby land is held in a land bank, is a muddle. Of the properties which have entered the protection mechanism"---and it takes about 4 months to look at any of them---` ` only 4 percent have been protected, half of them in the end end up being disposed of by the Government."

The summary of the report of the Controller and Auditor-General states: ` ` I have observed no integrated system for the provision of information." He also observes that the Minister of Maori Affairs is in breach of his obligation under the law to report annually to Parliament on the response of the Crown to the recommendations of the Waitangi Tribunal. He has not done that. He has not had the courtesy to come back to this House since November 1993. If a Minister is in breach of the law, albeit on something that is procedural and mechanical---no lives are at stake, no property is at issue, but the claims of thousands of people are at issue---and if the Minister does not see fit to comply with the law, he does not have the standing, I think, to require that others should.

But the most damning piece of advice that this Government has had that all is not well in this area came earlier this year from no less than the chairman of the Waitangi Tribunal. I want to quote yet again---I have had occasion to do so earlier this year---from the memorandum that the chairman delivered on 17 March this year. The Chief Judge of the tribunal had this to say: ` ` The main constraint on the tribunal has been its budgetary limitations. It is undoubtedly the case that much more research and many more hearings of cases would now be in progress or would long since have been reported but for this limitation. The tribunal has a staff of 30, far fewer than the Government itself has available in this area. There are 16 members of the tribunal, but for financial reasons only one is able to work full-time; all others have other commitments. The more unfortunate effect of budgetary limitations is the rivalry this has helped engender amongst iwi and claimant groups."

Many members of this House know that to be the case, and in one sense we have seen that at Takahue. The chairman says: ` ` The tribunal is continually beset by requests for early and urgent funding and there has been criticism when the tribunal has proceeded with other cases. The situation"---and here is the point that relates directly to Takahue---` ` may also have contributed to some improper occupations of land." The Chief Judge is not excusing that; the Chief Judge is not saying: ` ` That's all right. Because the Government hasn't funded enough, and we can't do the research we would like, it's all right for people to occupy land."---much less destroy property. But the Chief Judge is saying that the responsibility for the backlog of research and claims is not the tribunal's. It is squarely the Government's responsibility.

Later in the same memorandum the Chief Judge said: ` ` The claims of most iwi remain in incomplete stages of research or hearing on the main grievances, let alone their numerous ancillary claims." That is true, we all know it is true, and we all know it is not good enough. Something over 500 claims are awaiting a hearing from the Waitangi Tribunal. Many of those overlap. Some may be, if not frivolous, at least lacking in substance, but many are not. Even if they are grouped, something like 30 separate substantial claims are awaiting research and hearing. That is not good enough. It is a situation that builds frustration.

In this case this particular piece of land was part of the



Muriwhenua claim. That claim was lodged with the Waitangi Tribunal on 1 December 1987. Its registry number is WAI45. It is one of the earliest claims lodged with the Waitangi Tribunal. The fisheries aspect of the Muriwhenua claim has been dealt with, heard, reported on, and subsumed in the Sealord's settlement. Their land claim has not been dealt with. They have sought to negotiate that directly with the Government for over 5 years and they are still talking. Of course there are difficulties---difficulties in establishing who is entitled to claim, difficulties in establishing the precise history of the various lands. But this Government has not assisted itself, the claimants, or this country by impoverishing the tribunal by deliberately not giving it the resources that it has sought and, plainly, that it needs. This Government bears some responsibility for what has happened at Takahue.

Repeated reference by various members to the underfunding of the Tribunal as a reason for this and other occupations. *Tirikatene-Sullivan* compared Tribunal's annual budget (\$3.4m) to that of the Government's Office of Treaty Settlements (\$8m), saying that they should be at least equal.

**26 Sept, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 550, pp9140-9153**

**Waikato-Tainui Raupatu Claims Settlement Bill** (Report of Justice and Law Reform Committee on Bill)

**AND**

**5 Oct, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 550, pp9555-9568**

**Waikato-Tainui Raupatu Claims Settlement Bill** (Second Reading)

Much of the debate concerns the extinguishment of the buy-back right which existed under s40 of the Public Works Act for private land owners who had their land taken under the Act. Some of this land was transferred to SOEs, and the Settlement Bill deemed certain of these lands to have been ordered to be returned to Tainui by the Tribunal, which effectively extinguished the buy-back right for the original private owners. A lot of "righting a wrong with a further wrong" rhetoric by those opposing the Bill.

**5 Oct, Hansard Question Supplement Vol 22, p4205**

**Written Question 7208**

RICK BARKER (Hastings) to the Minister for Courts: Has a claim for the land been filed with the Waitangi Tribunal for the land under Kaiangaroa forest; if so, what effect has it had on the Forestry Corporation of New Zealand Ltd, and when is the claim expected to be resolved?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: Several claims are lodged in respect of the land under Kaiangaroa forest. The effect on Forestry Corporation is not known. Dates for hearing the claims, which is the first step in their resolution, are yet to be set.

**11 Oct, Hansard Question Supplement Vol 22, p4320**

**Written Question 7534**

TAU HENARE (Northern Maori) to the Minister of Internal Affairs: Given that Cabinet has given approval to plans for restructuring of the National Archives, will there be a process of consultation with Maori about the plans; if so, what, and when; if not, why not?

ANSWER :

Hon WARREN COOPER (Minister of Internal Affairs) replied: A separate consultation with iwi representatives was held on 18 October 1995. On 26 September there was a specific briefing session by the Secretary for Internal Affairs and the Chief Archivist with senior management of the Waitangi Tribunal. When the plans were announced, some Maori expressed concern that the current access to public archives might be limited or made subject to fees. I was able to reassure people that access to public archives would not be affected by the changes. The public will continue to have access to the public archives free of charge.

**11 Oct, Hansard Question Supplement Vol 22, p4321**  
**Written Question 7535**

TAU HENARE (Northern Maori) to the Minister of Internal Affairs: Was there any consultation with Maori over the proposed plans to restructure the National Archives prior to Cabinet approving the plan; if so, what; if not, why not?

ANSWER :

Hon WARREN COOPER (Minister of Internal Affairs) replied: As part of consulting with representative stakeholders in undertaking the independent review of National Archives last year, McDermott Miller Limited included a staff member from each of the Treaty of Waitangi Policy Unit and the Waitangi Tribunal. While McDermott Miller found that 5.1 percent of registered readers at the Wellington headquarters were Waitangi Tribunal claimants, in their summary of user needs and concerns (Annex III of the McDermott Miller report), no issues particularly relating to Maori were identified.

**19 Oct, Hansard Question Supplement Vol 22, p4437**  
**Written Question 11**

Hon Mrs T W M TIRIKATENE-SULLIVAN (Southern Maori) to the Minister in charge of Treaty Negotiations: Following the recommendation of the Waitangi Tribunal on the claim by Ngati Turangitukua, does the Government intend to stop the sale of land that is either the subject of claims before the Waitangi Tribunal or surplus Crown land that has previously been used to settle such claims?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Government will not be making any decisions on the claim by Ngati Turangitukua until it has had time to consider the findings and recommendations of the Waitangi Tribunal. Until the Ngati Turangitukua claim is settled, the Protection

Mechanism for Surplus Crown Land will continue to apply to any Crown land declared surplus in the claim area.

**28 Nov, Hansard Question Supplement Vol 22, p4679**  
**Written Question 8832**

TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: What contact as the Office of Treaty Settlements had with the Te Roroa iwi following publication of the report by the Waitangi Tribunal on the WAI 38 claim, and what information has the office provided to the iwi about the Crown's intentions with regard to the claim?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Waitangi Tribunal released its report on the Te Roroa claim in 1992. The Office of Treaty Settlements came into being on 1 January 1995. Its predecessor, the Treaty of Waitangi Policy Unit, held extensive exploratory discussions with Te Roroa resulting in, amongst other things, the signing of a Framework Agreement in June 1993. Contact this year between the Office of Treaty Settlements and Te Roroa has focused on initiating substantive negotiations between the Crown and the claimants. Te Roroa has mandated a negotiating team of one representative from each of the four constituent hapu plus the Secretary of "Te Iwi O Te Roroa Inc." Recently the Crown has written to and met with representatives of the Te Roroa negotiators and their legal counsel to discuss the issues raised by the claim and how to progress substantive negotiations. In consultation with the claimant group, the Office of Treaty Settlements has been considering appointing a Crown negotiator. An appointment is imminent. Crown intentions with regard to claim settlements are outlined in the "Crown Proposals for the Settlement of Treaty of Waitangi Claims." Preliminary discussions with Te Roroa have covered the process of negotiations, claimant funding and the Crown policies relevant to their claim. On 11 December 1995 Cabinet will consider a request from Te Roroa for further funding, to allow them to effectively participate in negotiations leading to the settlement of their claim.

**28 Nov, Hansard Question Supplement Vol 22, p4680**  
**Written Question 8833**

TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: What contact has the Office of Treaty Settlements had with the claimant group since the publication of the Waitangi Tribunal report on WAI 38, and what information has the office provided to the claimant group about the Crown's intentions with regard to the claim?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Waitangi Tribunal released its report on the Te Roroa claim in 1992. The Office of Treaty Settlements came into being on 1 January 1995. Its predecessor, the Treaty of Waitangi Policy Unit, held extensive exploratory discussions with the Wai 38

claimant group resulting in, amongst other things, the signing of a Framework Agreement in June 1993. Contact this year between the Office of Treaty Settlements and the claimant group has focused on initiating substantive negotiations. The claimant group has mandated a negotiating team of one representative from each of the four constituent hapu plus the Secretary of ``Te Iwi O Te Roroa Inc." Recently the Crown has written to and met with representatives of the claimant group's negotiators and their legal counsel to discuss the issues raised by the claim and how to progress substantive negotiations. In consultation with the claimant group, the Office of Treaty Settlements has been considering appointing a Crown negotiator. An appointment is imminent. Crown intentions with regard to claim settlements are outlined in the ``Crown Proposals for the Settlement of Treaty of Waitangi Claims." Preliminary discussions with the claimant group have covered the process of negotiations, claimant funding and the Crown policies relevant to their claim. On 11 December 1995 Cabinet will consider a request from the claimant group for further funding, to allow them to effectively participate in negotiations leading to the settlement of their claim.

**28 Nov, Hansard Question Supplement Vol 22, p4680**  
**Written Question 8834**

TAU HENARE (Northern Maori) to the Minister in charge of Treaty of Waitangi Negotiations: What communication has there been between the Office of Treaty Settlements and himself with regard to the Waitangi Tribunal report on the WAI 38 claim, and what advice have officials given him on this issue?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Waitangi Tribunal released its report on the Te Roroa claim in 1992. I received considerable advice from the Treaty of Waitangi Policy Unit on the claim, including an analysis of the Tribunal report, of both the overarching policy issues and the breaches which it identifies. Following this, preliminary discussion between the Crown and Te Roroa resulted in the signing of a Framework Agreement in June 1993. The Office of Treaty Settlements came into being on 1 January 1995 and has since regularly briefed me on the Te Roroa claim. Settlement of the claim has been accorded a high priority by the office in its annual overview report. The advice of my officials has focused in particular on the ways and means of removing impediments to negotiations and the settlement of the Te Roroa claim. This advice has led to the imminent appointment of a Crown Negotiator and a proposal being submitted to Cabinet for further claimant funding. I expect the Office of Treaty Settlements to submit a draft Crown Negotiating Brief to Cabinet for approval in the new year. As you will be aware the claim also involves significant third party issues, such as the proceedings being taken against the Crown by the Aranga farmers. These have to be addressed in conjunction with the Te Roroa claim to ensure progress towards settlement. Briefings by officials have been ongoing with relation to these issues and have focused on developing strategies to resolve matters to the satisfaction of all parties.

Answers to Oral Questions – Fiscal Envelope

Fiscal Envelope

2. TAU HENARE (Northern Maori), to the Minister of Maori Affairs: Does he stand by the comments attributed to him by National Radio this morning that ``while there's been an overwhelming rejection of the fiscal envelope idea, no one has come up with an alternative"; if not, what did he actually say?

Hon. DOUG KIDD (Minister of Labour), on behalf of the Minister of Maori Affairs: I will quote the actual comments made by the Minister during the interview given on 28 November 1995, which was tape-recorded at the time and transcribed: ``I think Government has certainly heard the concerns. What has been lacking though is where we go from here. Government has invited Maori to have an input in that. We have said, `Well, OK, what's your advice?', and generally people have been rather reluctant to come forward with suggestions as to where we go from here."

Tau Henare: Is it not the case that an obvious alternative already available to the Crown in every other area is to treat each claim on its individual merits, and not to be in the position of saying to a legitimate claimant: ``Oh, sorry mate, your claim is valid but there is nothing left to give you because all the money has gone."?

Hon. DOUG KIDD: Clearly it is not just a case of parties being reluctant to come forward with proposals. The member for Northern Maori indicates that he does not have a clue how to contribute to the process. It is not, and never could be, the case that the contents, for want of a word, of the fiscal envelope would all end up with Tainui or Ngai Tahu, pleased as we all are with the settlement with Tainui, and as anxious as we are for one with Ngai Tahu. The whole concept is to treat claimants fairly in regard to all other claims, and fairly as between all New Zealanders.

Roger Sowry: During the same interview that was referred to in the substantive question, what was the Minister's actual response on the need for the Treaty of Waitangi grievances to be resolved by the Government?

Hon. DOUG KIDD: The Minister of Maori Affairs strongly supports the Government's initiatives to move forward in resolving these grievances, and he said: ``Government can't sit on its hands and say, `OK, nothing will happen.' There are some very pressing policy issues that need to be decided really for the good of Maori, for the good of the whole community. So Government continues that process, tries to include people where people are willing to be included in the process, and tries to move forward something that will eventually have the consensus and support of Maori and the wider community."

Hon. David Caygill: Will the Minister concede that the only reason that the Government denies that simply abandoning the fiscal envelope and dealing with each claim on its own merits is indeed an alternative to the fiscal envelope, is that it is not prepared to accept that the fiscal envelope is not only unnecessary but also unworkable and unfair?

Hon. DOUG KIDD: No, I will not concede that. The honourable member is wrong.

Sandra Lee: Given the Minister's reply in relation to the ability of the member for Northern Maori to contribute to the process, does the Minister consider his own contribution appropriate given the fact that he introduced an unmandated Bill called the Runanga O Ngai Tahu

Bill at midnight as a private Bill with all Standing Orders suspended, before it was brought to the people of Ngai Tahu, as the local member when he is not the local member, the local member is the member for Southern Maori?

Rt Hon. J B Bolger: I raise a point of order, Mr Speaker. I suggest that you invite the honourable member, the deputy leader of the Alliance, to declare her pecuniary interest in the Ngai Tahu Bill.

Mr SPEAKER: The member's interest in that particular Bill has been discussed on at least two occasions previously, and it has been determined that nothing prevents her from taking part in discussion on the Bill either in the committee or here.

Sandra Lee: I raise a point of order, Mr Speaker. Perhaps the Minister would like to declare any pecuniary interest he might have, given the fact that he introduced the Bill on behalf of the person who is a relation of his.

Mr SPEAKER: No, that is not a point of order.

Hon. DOUG KIDD: A more ignorant and ridiculous notion would be harder to imagine: that I might have some pecuniary interest in introducing a Bill on behalf of Ngai Tahu. I was proud to introduce it as the Minister of Maori Affairs at the time, and I hope to see its passage.

To answer the question directly: that Bill originated from an enormous process of consultation amongst the papatipu runanga of Ngai Tahu, and culminating in a huge hui a iwi at Takahanga Marae in Kaikoura, where the Bill was endorsed by representatives of the runanga by a vote, the exact figure I cannot remember, of the order of 500 votes to one. The one vote was that of the member for Southern Maori.

Tau Henare: I seek leave to table a letter dated 30 November 1994, which is the response of New Zealand First to the fiscal envelope.

Mr SPEAKER: Leave is sought for that purpose. Is there objection? There is.

## 1996

**1 Mar, Hansard Question Supplement Vol 23, p5349**

**Written Question 1101**

Hon DAVID CAYGILL (Deputy Leader of the Opposition) to the Minister in charge of Treaty of Waitangi Negotiations: Why were the Crown's policy proposals on treaty claims involving public works acquisitions circulated only to claimants who have lodged claims with the Waitangi Tribunal, and which ministries did he consult to advise on such an undertaking?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Crown's Policy Proposals were certainly circulated to claimants who have lodged public works related claims, but rather than risk omitting some claimants due to error or because their statements of claim did not mention public works issues, the Government decided to circulate the proposals to all claimants. My officials consulted with the following ministries and agencies on the method of consultation to be undertaken: Te Puni Kokiri, the Crown

Law Office, the Department of Survey and Land Information, the Department of the Prime Minister and Cabinet and the Treasury.

**19 Mar, Hansard Question Supplement Vol 23, p5493**

**Written Question 1660**

GRAHAM KELLY (Porirua) to the Minister in charge of Treaty of Waitangi Negotiations: Are there claims before the Waitangi Tribunal for any Crown land in Porirua; if so, what are they and when were they lodged?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: According to the Register of Claims held by the Waitangi Tribunal, Treaty of Waitangi claims relating to Porirua are as follows:

- Wai 60 Claimant: K Maurice, on behalf of the Parai family  
Concerning: Parai Estate, Takapuwahia, taken in 1960 for State housing purposes  
District: Porirua  
Received: 17 September 1987  
Status: A research report has been completed. A judicial conference is required to determine the claim's readiness for hearing.
- Wai 89 Claimant: Te P Parata on behalf of Ati Awa Ki Waikanae  
Concerning: Whitireia Block  
District: Porirua  
Received: 7 August 1989  
Status: Research is completed and the claim is awaiting hearing.
- Wai 207 Claimant: A Wineera (deceased) and others of Ngati Toa Rangatira  
Concerning: Ngati Toa Lands, stretching from the Whangaehu river to Kaikoura  
District: Wellington, Northern South Island, Southern South Island  
Received: 1 June 1991  
Status: This claim is under claimant research.

These claims do not relate only to Crown land in Porirua. If it is established that there was a Treaty breach and that the claimants were prejudiced as a result, then redress would normally take the form of land that has been set aside in a land bank, or other Crown land or cash.

**21 Mar, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 553, p11639**

**Answers to Oral Questions – Crown Forest Assets Act - Waitangi Tribunal**

Crown Forest Assets Act---Waitangi Tribunal

3. Hon. DAVID CAYGILL (Deputy Leader of the Opposition) to the Prime Minister: Does the Government intend to propose amendments to the Crown Forest Assets Act to remove the right of claimants to seek binding recommendations from the Waitangi Tribunal in respect of Crown forest land; if so, why and when?

Rt Hon. J B BOLGER (Prime Minister): No.

Hon. David Caygill: Will the value of any Crown forest land, in respect of which the tribunal makes a binding recommendation, be taken off the Government's so-called fiscal envelope?

Rt Hon. J B BOLGER: I do not intend to enter into that debate. If the member wants to put down a question, I will answer it for him.

**27 Mar, Hansard Question Supplement Vol 23, p5710**  
**Written Question 2303**

Hon DAVID CAYGILL (Deputy Leader of the Opposition) to the Prime Minister: Will the value of any Crown forest land in respect of which the Waitangi Tribunal makes binding recommendations be taken into account when determining the remaining sum available within the Government's overall fiscal envelope for settling Treaty of Waitangi claims?

ANSWER :

Rt Hon J B BOLGER (Prime Minister) replied: Under the Government's present policy, in the event of the Waitangi Tribunal making a resumptive order for Crown forest land, the value of the land would be included in the settlement envelope.

**16 May, Hansard Question Supplement Vol 24, p6361**  
**Written Question 4574**

MARK PECK (Invercargill) to the Minister for Courts: Is the land currently occupied by Masterton Hospital the subject of any claim to the Waitangi Tribunal?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: I am informed that the Waitangi Tribunal has one claim referring to Masterton (Wai 429) but no claim specifically referring to the Masterton Hospital.

**11 Jun, Hansard Question Supplement Vol 24, p6531**  
**Written Question 5144**

Hon Mrs T W M TIRIKATENE-SULLIVAN (Southern Maori) to the Minister for Courts: How much money was allocated to the Waitangi Tribunal this financial year, what percentage of the budget does this represent, and how does this compare since 1990?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The Waitangi Tribunal budget for 1995/96 was \$4.2 million, including GST. This represents 2 percent of the Department for Court's overall budget in 1995/96. In earlier years the Waitangi Tribunal formed part of the Department of Justice's budget allocation. The budget for previous years, back to 1990, is as follows. All amounts are GST inclusive.

Year	\$ million
1994/95 .. .. .	3.9
1993/94 .. .. .	3.1



1992/93 .. .. .	2.9
1991/92 .. .. .	3.3
1990/91 .. .. .	3.2
1989/90 .. .. .	2.8

**18 Jun, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 556, p13157**

**Answers to Oral Questions – Waitangi Tribunal – Taranaki Claim**

Waitangi Tribunal---Taranaki Claim

9. TAU HENARE (Northern Maori) to the Minister in Charge of Treaty of Waitangi Negotiations: What steps is the Government taking to inform the public as to the reasons for the Waitangi Tribunal's recommendations on the Taranaki claim?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Waitangi Tribunal is an independent commission of inquiry. It is not appropriate for the Government to take an active role to explain the reasons for the tribunal's recommendations. The tribunal's interim report on the Taranaki claim fully explains the evidence considered by the tribunal and its reasoning behind its findings.

Tau Henare: Given the well-constructed, historical reasons for the report's conclusions, and widespread public concern about its implications, does the Minister not consider he should be making the report as widely available as possible to schools, libraries, the media, and the public generally, instead of locking it up behind a \$100 toll-gate that will ensure very few people can come to grips with the facts?

Hon. D A M GRAHAM: I was somewhat aghast at the cost of the report, too. On checking with the director of the Waitangi Tribunal I find that GP Print, which printed it, did only a short run of 450 copies. The end result of that was that the cost of that to the tribunal itself is being recovered with no profit at all and with no contribution to the tribunal's costs. It is expensive and I will be looking into that matter.

Hon. David Caygill: Does the Minister recall suggesting in a newspaper article some 18 months ago that some effort was needed to lift public understanding of the need to resolve treaty grievances, is he convinced that the situation is any different today, and what steps are being taken to achieve that goal?

Hon. D A M GRAHAM: I think the public is better informed now than it was even 12 months ago. I think also that the best form of education is a full report from the Waitangi Tribunal and that it is made available to libraries. I do hope that New Zealanders take the time to try to read it. If they cannot afford to buy it then they should be able to borrow it from the libraries or get it from some other colleague.

**20 Jun, Hansard Question Supplement Vol 25, p6672**

**Written Question 5552**

TAU HENARE (Northern Maori) to the Minister for Courts:  
What is the dollar amount set aside specifically to monitor the delivery of services to the Maori community by the agencies for which he is responsible, and what proportion of their total Vote is that?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: There is no dollar amount specifically set aside within Vote: Courts to monitor the delivery of Court services to the Maori community. Funding of \$12.6 million or 6 percent of the total Vote is provided for the operation of the Maori Land Court and the Waitangi Tribunal. The Department for Courts Strategic Plan 1996-2000 identified developing the department to better reflect the Treaty partnership between Maori and the Crown as one of seven strategic issues facing the new organisation. The Tu Tangata Council, a Maori consultative group, has been established to assist the new department work through and develop the key Court delivery issues for Maori

**9 Aug, Hansard Question Supplement Vol 25, p7346**  
**Written Question 7767**

Hon Mrs T W M TIRIKATENE-SULLIVAN (Southern Maori) to the Minister for the Environment: How does he define a ``senior manager" within the context of his department or ministry, how many such permanent senior managers are employed in total, of this total, how many are Maori-identifying, what are their names, and what is each one's specific area of responsibility?

ANSWER :

Hon SIMON UPTON (Minister for the Environment) replied: A ``senior manager" is defined by the Ministry for the Environment as ``those who manage a significant resource in the organisation and/or those who operate at a strategic level and/or those who report directly to the Top Management Group". The ministry employs 17 senior managers. Currently, there are no Maori managers. However, there is one vacancy in the Maruwhenua Unit (Maori Secretariat). Previous managers of this unit have been Maori. The manager of Maruwhenua is responsible for advice and information on Maori and Treaty of Waitangi issues in relation to environmental and resource management policies; advice and information on claims to natural resources made to the Waitangi Tribunal.

**9 Aug, Hansard Question Supplement Vol 25, p7348**  
**Written Question 7776**

Hon Mrs T W M TIRIKATENE-SULLIVAN (Southern Maori) to the Minister for Courts: How does he define a ``senior manager" within the context of his department or ministry, how many such permanent senior managers are employed in total, of this total, how many are Maori-identifying, what are their names, and what is each one's specific area of responsibility?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: No particular definition of the term ``Senior Manager" is used in the Department for Courts. Together with the Chief Executive, Wilson Bailey, eight senior managers make up the department's Executive Management Committee which is collectively responsible for the efficient and

effective delivery of departmental outputs. While he is also considered a senior manager, the Director of the Waitangi Tribunal does not sit upon the Executive Management Committee. In addition another five Deputy General Managers lead the operation of the Courts across the country. The total number of these senior managers is 14. Of these one, Morris Love, Director of the Waitangi Tribunal identified as Māori upon his appointment to the position. Morris Love is responsible for overall management of the Tribunal's staff and resources to ensure high quality service delivery, efficient and effective resource use, and effective support of the Waitangi Tribunal.

**9 Aug, Hansard Question Supplement Vol 25, p7363**  
**Written Question 7835**

JOHN BLINCOE (Nelson) to the Minister in charge of Treaty of Waitangi Negotiations: When is the Treaty of Waitangi claim on a 650 hectare block of land in the lower Heaphy valley expected to be heard by the Waitangi Tribunal, and are any discussions or negotiations taking place on the future of the land in the meantime?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The claim relating to the block of land in question was reported on by the Waitangi Tribunal in the Ngai Tahu Ancillary Claims Report, 1995, as ancillary claim No. 33, Whakapoai. The Crown and Ngai Tahu are having without prejudice discussions concerning this area as part of the Ngai Tahu settlement negotiations. The public interest and conservation values of the area will be taken into account.

**9 Aug, Hansard Question Supplement Vol 25, p7363**  
**Written Question 7836**

JOHN BLINCOE (Nelson) to the Minister in charge of Treaty of Waitangi Negotiations: When is the Treaty of Waitangi claim on the 28,600 hectare Tai Tapu estate, which was excluded from the gazetting of the Kahurangi National Park, expected to be heard by the Waitangi Tribunal, and are any discussions or negotiations taking place on the future of the land in the meantime?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Treaty claim on the area known as Tai Tapu is a component part of Wai 102, Te Tau Ihu o te Waka, which is not currently scheduled for hearing by the Waitangi Tribunal. No discussions or negotiations are currently taking place on the future of the land concerned.

**12 Aug, Hansard Question Supplement Vol 25, p7384**  
**Written Question 7889**

Hon Mrs T W M TIRIKATENE-SULLIVAN (Southern Maori) to the Minister for Courts: What is the total amount of money, if any, set aside within his 1996/97 budget for the purchase and delivery of Maori specific services, what is the exact amount allocated to each of these services, and what precise evaluative mechanisms are in place to ensure that both the funding and the services do, in fact, reach the intended Maori recipient?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: Funding of \$12.6 million or 6 percent of the total Vote: Courts is provided for the operations of the Maori Land Courts (\$8.5 million in 1996/97) and Waitangi Tribunal (\$4.1 million in 1996/97). The Department for Courts Strategic Plan 1996-2000 identified developing the department to better reflect the Treaty partnership between Maori and the Crown as one of seven strategic issues facing the new organisations. Requests for information for the Maori Land Court (100,000 requests in 1996/97) and Maori Land Information Office (110 applications in 1996/97) will be responded to and assessed in accordance with established timeliness and customer services standards. Waitangi Tribunal reports are evaluated on timeliness and established best practice criteria.

**13 Aug, Hansard Question Supplement Vol 25, p7412**  
**Written Question 7996**

Hon Mrs T W M TIRIKATENE-SULLIVAN (Southern Maori) to the Minister for Courts: Which programmes or special services to Maori within his department or ministry, if any, are not producing the results hoped for, what are the names of these programmes, what method has been used to measure their lack of efficacy, and what, if anything, and when, will corrective measures be taken?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The Department for Courts provides services to Maori by providing administrative support to the Maori Land Court and to the Waitangi Tribunal. These services are providing the results hoped for.

**20 Aug, Hansard Question Supplement Vol 25, p7476**  
**Written Question 8262**

Rt Hon MIKE MOORE (Christchurch North) to the Minister of Lands: What is Government policy in regard to iwi receiving first refusal in purchasing of surplus Crown property, when was the policy, when was it last determined, and what are the precise instructions sent to departments and iwi in regard to this policy?

ANSWER :

Hon DENIS MARSHALL (Minister of Lands) replied: Iwi do not have the first right of refusal to purchase. That right normally belongs to former owners or their successors who, in terms of surplus Public Works Act land, may be entitled to an offer back pursuant to

Section 40 of the Act. otherwise, the Government has no specific policy in regard to iwi having first right of refusal after statutory offer backs are discharged, to purchase surplus Crown property.

Using Ngai Tahu's situation as an example, the policy for land banks has developed over a period of six years, starting with the Waitangi Tribunal's interim advice to Government in 1990, that it would almost certainly find in favour of Ngai Tahu. The Tribunal therefore recommended to Government that it would be appropriate to reserve surplus Crown properties from sale in anticipation that they would be required for later treaty settlements. In April 1994, after land banking had been underway for a number of years, the Government agreed that Ngai Tahu be permitted to purchase properties that were either in the land bank or proposed for inclusion in the land bank.

As the total value of properties in the land bank approached the financial cap of \$35 million, it became difficult to transfer-in better properties that had more recently been declared surplus. Ngai Tahu sought the opportunity to purchase some of the properties from the land bank as a means of developing its property portfolio, and as a means of making room for other surplus properties.

Ngai Tahu has no automatic right to purchase. Sales are transacted on a case by case basis, with the agreement of the Office of Treaty Settlements and the Chief Executive of Land Information New Zealand who are responsible for the implementation of the policy. A significant condition of sale was that the purchase price was to be the current market value set by an independent registered valuer commissioned by the Crown.

These sales were commercial transactions between the Crown and Ngai Tahu. They will not be taken into account in the final settlement. The reason for this is that these purchases were made by Ngai Tahu using its own money.

The Whanganui Māori Trust Board sought a similar opportunity to purchase properties that are either in its approved land bank or are proposed for addition to it. The trust board has been given approval in principle to purchase, but to date no purchases have been made.

## **22 Aug, Hansard Question Supplement Vol 25, p7567 Written Question 8524**

Rt Hon MIKE MOORE (Christchurch North) to the Minister in charge of Treaty of Waitangi Negotiations: Did his department or any of his associated agencies allocate money for the purpose of educating the public on the long-standing grievance involved in the Ngai Tahu Treaty of Waitangi claim; if so, how much; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: None of my departments or associated agencies have allocated any monies to educate the public on Ngai Tahu's longstanding Treaty of Waitangi claims. The Waitangi Tribunal has released three reports on Ngai Tahu's claims (Ngai Tahu report 1991; Ngai Tahu Sea Fisheries report 1992; Ngai Tahu Ancillary claims report 1995). These reports are publicly available and provide clear evidence and findings about Ngai Tahu's historical claims.

**5 Sept, Hansard Question Supplement Vol 25, p7879**  
**Written Question 9675**

Hon JIM SUTTON (Timaru) to the Minister for Courts: What claims have been lodged with the Waitangi Tribunal in respect of Ngati Kahungunu?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The information requested has been supplied to the member separately and I have provided a copy to the **Parliamentary** Library for perusal by other members.

**12 Dec, Hansard Question Supplement Vol 26, p35**  
**Written Question 163**

RODNEY HIDE to the Minister of Finance: What are the actual costs of adequately resourcing the Waitangi Tribunal as detailed in the coalition agreement?

ANSWER :

Rt Hon W F BIRCH (Minister of Finance) replied: The cost of adequately resourcing the Tribunal depends on a variety of factors including its workflow (this depends on whether claimants prefer to use the Tribunal or go straight to direct negotiations with the Crown), the availability of staff with the appropriate skills and experience, and the administrative procedures, the Tribunal adopts for processing claims through the stages of research, hearings and report writing. Between 1993/94 and 1996/97 funding for the Tribunal rose from \$3.1 million to \$4.325 million. In November 1995 the previous Government approved extra funding for the Tribunal of \$400,000 for 1995/96 and \$100,000 for 1996/97. This was tagged to the completion to the Rangahaua Whanui project and report writing for the Muriwhenua/Taemaro, Ngati Awa, Taranaki and Whanganui River claims. Recent Tribunal initiatives to improve the efficient delivery of its outputs include a requirement that all the relevant research be compiled into a casebook before a hearing starts, and the employment of professional writers who can begin writing a report as soon as the hearing is completed. The Minister for Courts will consider the adequacy of the Waitangi Tribunal resources during the next Budget round.

**13 Dec, Hansard Question Supplement Vol 26, p254**  
**Written Question 1042**

SANDRA LEE to the Minister for Courts: When will the Government adequately resource the Waitangi Tribunal to complete outstanding Treaty of Waitangi claims, how much will it cost to implement this policy, and what advice has he received regarding the implementation of this policy?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The Waitangi

Tribunal is already funded for a full work programme this year. The government will consider resourcing of the Waitangi Tribunal for 1997/98 in the forthcoming budget process. To date no costings have been done and no advice has been received regarding the implementation of this policy.

## **1997**

### **18 Feb, Hansard Question Supplement Vol 26, p265**

#### **Written Question 1079**

Hon PHIL GOFF to the Minister for Courts: What is the current level of cases awaiting hearing before the Waitangi Tribunal, and what is the estimated delay before all of these cases will be heard?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: As at February 1997, 277 of the registered claims were not yet ready for hearing, 124 of the registered claims were awaiting a hearing, and 30 claims were currently in hearing. Based on current resourcing, it is the aim of the Waitangi Tribunal to have major historic claims dealt with by the end of the year 2000 and all major claims dealt with by the year 2005.

### **18 Feb, Hansard Question Supplement Vol 26, p265**

#### **Written Question 1080**

Hon PHIL GOFF to the Minister for Courts: In the last two years, how many cases have been referred to the Waitangi Tribunal for action, and how many have been heard and resolved?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: In the last two years (January 1995 to January 1997) there have been 163 claims registered with the Waitangi Tribunal. Of these, 2 claims are outside the jurisdiction of the Waitangi Tribunal, the raupatu aspects of 1 claim have been settled, interim reports have been issued for 4 claims, 1 claim has been withdrawn, 3 claims do not require any further inquiry by the Waitangi Tribunal, and the remainder are currently under research.

### **18 Feb, Hansard Question Supplement Vol 26, p265**

#### **Written Question 1081**

Hon PHIL GOFF to the Minister for Courts: What reviews have taken place and what reviews are planned on the effectiveness of the Waitangi Tribunal?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: In 1994 the Department of Justice conducted two reviews of the Waitangi Tribunal Division's research function. The first review was by the Department's Internal Audit unit and the second was an external review of research across the Department of Justice including its Waitangi Tribunal Division. In 1995 two reviews of the Waitangi Tribunal were conducted. One was a general interdepartmental review arising out of the submissions on "Crown Proposals for the Settlement of Treaty of Waitangi Claims" which included a review of managerial efficiency and information management processes. The second was a review of administrative services in the Waitangi Tribunal business unit, by Arthur Andersen, for the Department for Courts. In 1996 an interdepartmental review of the management of research was also carried out. At the moment no further review of the efficiency of the Waitangi Tribunal is planned.

**18 Feb, Hansard Question Supplement Vol 26, p266**  
**Written Question 1082**

Hon PHIL GOFF to the Minister for Courts: What is the annual expenditure on the Waitangi Tribunal for each of the last five years?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: Annual operating expenditure (excluding depreciation and capital charges) by the Waitangi Tribunal for each of the last five years was as follows:

	\$million
1995/96 .. .. .	3.573
1994/95 .. .. .	3.363
1993/94 .. .. .	2.732
1992/93 .. .. .	2.474
1991/92 .. .. .	2.908

**18 Feb, Hansard Question Supplement Vol 26, p266**  
**Written Question 1083**

Hon PHIL GOFF to the Minister for Courts: How many cases have been settled by the Waitangi Tribunal, and what percentage of the cases before the Tribunal does this represent?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The Waitangi Tribunal has settled one claim---by mediation. The primary role of the Tribunal is not to settle claims but to research the claims, hear the evidence and report the findings to the Minister of Maori Affairs.

**18 Feb, Hansard Question Supplement Vol 26, p266**  
**Written Question 1084**

Hon PHIL GOFF to the Minister for Courts: How many staff are employed by the Waitangi Tribunal, is this number considered adequate, and



are there plans to increase the number of staff?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: Current staffing at the Waitangi Tribunal is as follows:

Full time permanent; 23 staff

Fixed term contractual; 17 staff

The number can only be regarded as adequate if no acceleration of the clearance of claims is envisaged. Any attempt to increase the rate at which claims are researched, heard and reported on would require additional resourcing. Any plans to increase the number of full time permanent staff will depend on additional resourcing.

**18 Feb, Hansard Question Supplement Vol 26, p473**  
**Written Question 1884**

MARIAN HOBBS to the Minister of Maori Affairs: Have officials begun the review of the Acts and regulations administered by the Waitangi Tribunal and of its policies and administrative practices as required by the Human Rights Act 1993; if so, what stages in the review process have officials completed, and what is the estimated completion date of the review; if not, why not?

ANSWER :

Hon TAU HENARE (Minister of Maori Affairs) replied: While, as Minister of Maori Affairs I am responsible for the administration of the Treaty of Waitangi Act 1975, the Waitangi Tribunal is administered by the Department of Courts and as such I respectfully suggest that you address this question to my colleague the Minister for Courts.

**11 Mar, Hansard Question Supplement Vol 27, p1248**  
**Written Question 5086**

Rt Hon MIKE MOORE to the Minister for Courts: Who has served on the Waitangi Tribunal over the past four years, what are their names, how many have sat and deliberated on claims, what were the claims, how long did each claim take, what was the result, how much did each Tribunal member earn for each of the past four years, and why?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: Over the past four years, 36 people have served on the Waitangi Tribunal. Their names are:

Chief Judge E. T. Durie  
Bishop Manu Bennett  
Georgina Te Heuheu  
Professor Gordon Orr  
Professor Keith Sorrenson  
Desmond Sullivan  
Dr Evelyn Stokes  
Joanne Morris

Emarina Manuel  
 Bill Wilson  
 Sir Hugh Kawharu  
 Mary Boyd  
 Monita Delamare  
 Makarini Temara  
 John Kneebone  
 Sir John Ingram  
 Hepora Young  
 William Taylor  
 Dr Ngapare Hopa  
 Pamela Ringwood  
 Keita Walker  
 Brian Corban  
 John Turei  
 Hon Dr Michael Bassett  
 Roger Maaka  
 John Clarke  
 Judge (retired) Richard Kearney  
 Areta Koopu  
 Dame Augusta Wallace  
 Erehana Ryan  
 Deputy Chief Judge N. F. Smith  
 Judge A. McHugh  
 Judge G. D. Carter  
 Judge W. W. Isaac  
 Judge H. K. Hingston  
 Judge P. J. Savage

In that period, 31 of those people have sat and deliberated on claims. The claims on which they sat are:

Wai Number	Title	Tribunal Members	Time Taken
27	Ngai Tahu ancillaries	McHugh J., Bennett, Te Heuheu, Kawharu, Orr, Sullivan, Delamere	24 months
45	Muriwhenua	Durie C. J., Bennett, Stokes, Morris	77 months
46	Eastern Bay of Plenty	Durie, C. J., Orr, Sorrenson, Walker, Corban, Turei	72 weeks
55	Whanganui a Orotu	Wilson, Bennett, Boyd, Ingram	25 months
64	Chatham Islands	Durie, C. J., Orr, Kneebone	83 weeks
84	Turangi	Orr, Kawharu, Stokes	24 weeks
143	Taranaki	Durie, C. J., Bennett, Orr, Sorrenson	62 months
145	Wellington Tenths	Orr, Sorrenson, Bennett	Not yet completed
153	Te Arawa prelim	Orr, Kawharu, Morris, Taylor	13 months
212	Ikawhenua (energy)	Carter, J., Boyd, Bennett	8 weeks
212	Ikawhenua (river)	Carter, J., Boyd, Bennett	33 weeks
262	Flora and Fauna	Kearney, Walker, Clarke	Not yet completed
299	Mohaka ki Ahuriri	Isaac, J., Turei, Clarke, Maaka, Sorrenson, Stokes	Not yet completed
315	Te Maunga	Hingston, J., Temara,	29 weeks

	Ringwood, Stokes	
350	Maori Development Corp	Hingston, J., Morris, Young, 18 weeks Ingram
413	Maori Elect options	Corban, Temara, Sorrenson, 27 days Walker, Young
414	Waipareira	Morris, Kawharu, Tingwood, 33 weeks Ingram, Young
447	Treaty of Waitangi Fisheries	Durie, C. J., Orr, Bennett, Postponed Te Heuheu, Walker, Sorrenson indefinitely due to a Court ruling on Tribunal jurisdiction
449	Kiwifruit marketing	Savage, J., Turei, Bassett, 10 weeks Kneebone

It should be noted that the indication of time taken for each hearing does not take into account the number of days that each Tribunal member has spent on preparation and contributing to report writing. The result of each completed hearing has been the presentation of a Tribunal report in accordance with the provisions of the Treaty of Waitangi Act 1975.

Each Tribunal Member (other than permanent members and Maori Land Court Judges) who sat on claims in each of the past four years were paid at the following rates:

Year	As Presiding Officer	As Tribunal Member
1994 .. .. .	\$540.00 per day	\$380.00 per day
1995 .. .. .	\$550.00 per day	\$390.00 per day
1996 .. .. .	\$600.00 per day	\$425.00 per day
1997 .. .. .	\$640.00 per day	\$435.00 per day

These rates are fixed by the Higher Salaries Commission pursuant to sections 12, 12A, 12AA, 12C and 19 of the Higher Salaries Commission Act 1977. In addition, Tribunal Members are entitled to claim expenses in accordance with the Fees and Travelling Allowances Act 1951. Judges of the Maori Land Court may be, and in the period in question have been, appointed as Presiding Officers of the Waitangi Tribunal and, while so presiding, are deemed to be members of the Tribunal. Maori Land Court Judges continue to receive their normal salaries and their salaries are not charged to the operating expenses of the Waitangi Tribunal. In period in question, there were two permanent members of the Waitangi Tribunal, namely the Chairperson and Professor Gordon Orr. The Chairperson is the Chief Judge of the Maori Land Court and his salary is not a charge on the operating expenses of the Waitangi Tribunal. The salary for the other permanent member for each of the past four years has been \$130,000, \$133,000, \$139,000 and \$145,000 respectively. The reason these amounts are paid is because that is what is required under paragraph 3 of the Second Schedule of the Treaty of Waitangi Act 1975.

**20 Mar, Hansard Question Supplement Vol 27, p1517**  
**Written Question 6269**

Hon PHIL GOFF to the Minister for Courts: What percentage of Waitangi Tribunal claims enquiries in the last financial year met time deadlines for being processed by staff in accordance with criteria set out in the Waitangi Tribunal management plan, and what is being done to improve upon this record?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The management plan for the Department for Courts Waitangi Tribunal unit contains standards for responding to enquiries made to the Waitangi Tribunal that relate to new claims or which are enquiries of a legal nature. In the case of enquiries dealt with in the last financial year by staff concerning new claims, 16% were dealt with in accordance with criteria. In the case of enquiries dealt with in the last financial year by staff concerning issues of a legal nature, 63% met the required criteria. The primary reason for not meeting criteria related to the timeliness of responses. In part, the non-achievement of timeliness criteria was caused by the management plan containing unachievable time standards for the nature of the enquiries. Other causes related to the combined effects of workload and its prioritisation and staffing issues that have since been resolved. As well as resolving those issues, there has also been a review of the management plan to ensure that the required standards are realistic.

**21 Mar, Hansard Question Supplement Vol 27, p1549**  
**Written Question 6392**

Hon PHIL GOFF to the Minister of Finance: How much money is the Crown Forestry Rental Trust holding on behalf of Maori, and what must first occur before Maori are granted access to these funds?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: The Crown Forestry Rental Trust held \$120,591,985 in accumulated rentals from Crown forestry licences at 31 March 1996. The accumulated rentals are held by the Trust on behalf of the rightful owners, who are either the Crown or a group with a Treaty claim to Crown forestry land. Before the accumulated rentals associated with particular Crown forestry land can be released by the Trust to Maori or the Crown there must be an order of the Waitangi Tribunal under the Treaty of Waitangi Act 1975 (as amended by the Crown Forest Assets Act 1989) relating to that land. This order may be made pursuant to a Tribunal hearing or in the context of a negotiated settlement of the claim.

**21 Mar, Hansard Question Supplement Vol 27, p1550**  
**Written Question 6393**

Hon PHIL GOFF to the Minister of Finance: How much Crown Forestry Rental Trust money has been spent on research into claims since 1990, how many researchers have been contracted to carry out the research, what was the average payment per researcher, have any researchers been paid more than \$250,000 in total for their research over the period since 1990, have any claims for payment by bona fide researchers been rejected; if so, for what reason, is there any established process for consultation with the Waitangi Tribunal, or the Tribunal that is to hear the claim, before a contract for the expenditure of research money is entered into, and does that process guarantee that the necessity of the research is first established?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: The Crown Forestry Rental Trust has spent a total of \$12,109,510 on research into claims since 1990. The Trust, the Waitangi Tribunal and the Office of Treaty Settlements are members of the Treaty Agencies Research Committee (TARC) and the Treaty Research Officials Committee (TROC) which were established to improve the co-ordination of research amongst Treaty agencies and which meet regularly to exchange information on work programmes and policies. The Trust also meets weekly with management of the Waitangi Tribunal. Finally, the Trust encourages claimants to agree to provide draft research plans to the Waitangi Tribunal for comment on research issues. These processes help ensure that research is not duplicated or otherwise completed if it is unnecessary.

The Government does not have information on the number of researchers contracted by the Trust, the average of aggregate payment per researcher or whether any claims for payments by bona fide researchers have been rejected. This information is held by the Trust, which is an independent entity administered by six Trustees and established by the previous Labour Government under an Act of **Parliament** (The Crown Forests Assets Act 1989). In recent discussions with the Trustees they have responded positively to my proposals for more detailed and regular reporting to Crown and Māori appointors on their activities. I understand that the Trust plans to contact the Leader of the Opposition to make itself available to discuss the work on the Trust.

**21 Mar, Hansard Question Supplement Vol 27, p1550**  
**Written Question 6394**

Hon PHIL GOFF to the Minister of Finance: Who monitors applicants for Crown Forestry Rental Trust research money, is there any process for ensuring that the research is not compromised by conflicts of interest, is there any process to ensure that researchers are competent people with a track record in historical research, is the Trust obliged to contact the Waitangi Tribunal to check whether they have any information on these matters, and what is the process and avenue for such contract?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: Under the Crown Forests Assets Act and the Deed of Trust, the Trust is administered by six Trustees whose role is to consider applications by claimants for funding to research and negotiate Treaty claims to Crown forestry land. Trustees agree to fund research only upon receipt of an acceptable research plan prepared by Trust staff and agreed with the applicant. Trustees will only approve funding for historical research by suitably qualified independent historians, who are always identified by the Trust itself. If suitably qualified historians are not available, the Trust will not proceed with funding any historical research until they are available. The Trust pays historians directly on the basis of satisfactory progress towards milestones in the research plan.

The Trust is not obliged by legislation or the Trust Deed to contact the Waitangi Tribunal before making decisions on research. However the Trust meets Waitangi Tribunal management weekly to

exchange information and discuss priorities. The Trust also encourages claimants to agree to draft research plans being provided to the Waitangi Tribunal for comment.

**17 Apr, Hansard Question Supplement Vol 27, p1954**  
**Written Question 7985**

Rt Hon MIKE MOORE to the Minister of Commerce: Given the policy correctly agreed to by successive governments that government departments should take into account the Treaty of Waitangi in policy formation, and in the delivery of that policy, what estimates are available of the costs of such consultations and consultants over the past three years, which consultants were used, and what were the individual costs of implementing this policy?

ANSWER :

Hon JOHN LUXTON (Minister of Commerce) replied: The Ministry of Commerce has spent the following amounts on consultants and consultations during that period, in the course of providing policy advice on commerce issues:  
Year ending 30 June 1995:

1994 Hui round involving consultations on intellectual property law reform: \$25,000.  
Year ending 30 June 1996:

Focus Groups concerned with consultations on issues relating to intellectual property law reform: \$16,600.

Crown Law Office---Wai 262: consultations on legal opinions relating to Waitangi Tribunal claims: \$2,790.

Trans Tasman Mutual Recognition Arrangement consultations: \$5,000.  
Year ending 30 June 1997 (year to date except as noted)

Focus Groups concerned with consultations on intellectual property law: \$35,100 (final total for year).

Focus Group members acting as consultants on issues relating to reform of the Patents Act 1953: \$21,150.

Crown Law Office---Wai 262 consultations on legal opinions relating to a Waitangi Tribunal claim: \$6,700.

**17 Apr, Hansard Question Supplement Vol 27, p1985**  
**Written Question 8052**

Rt Hon MIKE MOORE to the Minister of Finance: Who are the trustees, or board members of the Crown Forestry Trust, how much do they receive by way of honoraria, have any accepted any extra payment by way of expenses, consultancy or other fees; if so, how much since the Trust was established has been earned by trustees or ex-trustees, how much has been paid out for legal, research, or other activities, who received this income, what is the Trust's budget, where does this income come from, and where has it gone, since the Trust was established; if this information is not available, why is it not available, and will he ensure this information is made public; if not, why not, and if so called "privacy issues" are involved, will the information

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: The Crown Forestry Rental Trust was set up by the Labour Government under legislation passed in 1989. The administration of the Trust is in terms of the Trust Deed also negotiated by the Labour Government and Maori interests at that time. The Trustees of the Crown Forestry Rental Trust are currently:

Sir Graham Latimer (Chairperson)  
 Whatarangi Winiata  
 Henry Holden  
 Graham France  
 Richard Bettie

The Crown Trustees are appointed by the Minister of Finance and the Maori Trustees are appointed by the New Zealand Maori Council and Federation of Maori Authorities. Trustees are generally appointed for a term of three years.

The Trustees are currently paid fees of \$250 per meeting and the Chairperson is paid \$330 per meeting. They also receive allowances to cover their travel and accommodation expenses.

Since the Trust was established the amount paid to Trustees has been:

Year to	Travel and Meeting costs
	\$
31 March 1991 .. .. .	26,511
31 March 1992 .. .. .	98,073
31 March 1993 .. .. .	154,242

Year to	Trustees Fees	Trustee Expenses
	\$	\$
31 March 1994 .. .. .	101,850	125,745
31 March 1995 .. .. .	56,053	77,462
31 March 1996 .. .. .	93,644	86,950

The amount paid out for legal services was reported in the Trust's Report to Appointors as a separate item until 1994. From 1994 onwards legal expenses were reported as part of expenditure on professional services. In addition, some payments of assistance to claimants covered legal costs incurred by the claimant groups in the preparation of research or presentation of research to the Waitangi Tribunal.

The costs incurred by the Trust for legal services (until 1994), and research are below. The total operating costs are also included. These costs include Trustee fees and allowances but do not include direct assistance to claimants.

Year to	Legal Costs	Research	Total Operating Costs
	\$	\$	\$
31 March 1991 .. .. .	17,358	Nil	196,908
31 March 1992 .. .. .	39,616	60,000	438,674
31 March 1993 .. .. .	53,207	1,230,329	581,000
31 March 1994 .. .. .		1,195,972	803,072
31 March 1995 .. .. .		3,834,869	1,774,518
31 March 1996 .. .. .		4,085,143	2,555,549
1 April 1996-19 February 1997		1,703,197	

Expenditure on Trust activities has gone to a number of different people and organisations. The names of the claimant groups who

received assistance for research was provided in the written reply to the Rt Hon Helen Clark's question No. 3997.

The Trust's budget is set every year by the Trustees and is based on the expected level of income and expenditure for that year.

The Trust receives income from the interest earned from the investment of the forestry rentals from the Crown forestry licences. It also receives income from the interest earned on retained earnings and cash held in bank accounts. The Trust Deed provides for income to be spent on assistance to claimants for funding the research and negotiation of Treaty claimants to Crown forest land, the Trust's operating expenses, Trustee fees and allowances, and tax. Any surplus income is held as retained earnings and may be used in future years.

This answer also applies to question No. 8053.

**17 Apr, Hansard Question Supplement Vol 27, p1987**  
**Written Question 8055**

Rt Hon MIKE MOORE to the Minister for Courts: How much has been spent funding the Waitangi Tribunal since 1990, how much has each board member, or any individual organisation, consultancy or company received from the Tribunal, and have any board members received expenses, or accepted funding for consultancy work; if so, how much, why, and what was the result of such work, and if so called ``privacy issues" are involved, what is the most one individual has received since 1990; if this information is not available, why not, and will he seek information and advise **Parliament**; if not, why not?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: I have already responded to this matter to the honourable P Goff in relation to the funding of the Waitangi Tribunal but I will repeat the figures set out in **Parliamentary** question for written answer No. 1082:

	\$million
1996/97 .. .. .	4.049
1995/96 .. .. .	3.573
1994/95 .. .. .	3.363
1993/94 .. .. .	2.732
1992/93 .. .. .	2.474
1991/92 .. .. .	2.908

For privacy reasons I am not able to detail amounts paid to named individuals or entities. Services purchased by the Waitangi Tribunal include research commissions and assistance with report writing. The most that has been paid since 1990 is \$91,500 to one organisation for research. An ``average" commission cost for the 1995/96 financial year was \$19,175 and for the 1996/97 year to date is \$17,561. Research commissions are usually in favour of an individual researcher or to a claimant group.

Also for privacy reasons, individual Tribunal members expenses cannot be detailed but are in accordance with the rates set by State Services Commission and relate to travel and accommodation. Members are paid on a per diem basis. The present standard daily rate for members is \$435.00 and \$640.00 for presiding officers. In addition, since 1990 there have been four full time members of the Tribunal, including the chairperson. The chairperson and other Judges of the Maori Land Court who act, from time to time, as presiding officers receive their normal salaries as Judges which are not a charge



against the operating expenses of the Waitangi Tribunal. The most that an individual member of the Waitangi Tribunal (other than Judges) has received in any year since 1990 is \$144,279.80. The majority of Tribunal members act on a part-time basis and receive considerably less than the highest paid member, who was a full time member at that time.

Tribunal members are not involved in consultancy work, strictly speaking, for the Tribunal. However, one member has been engaged in writing research reports on an inquiry where that person is not a member of the Tribunal hearing the claims. In undertaking that task, the Tribunal member's remuneration while undertaking research continues to be paid on a per diem basis at the members ordinary rate. No additional payment is made. Another member is engaged in a quality assessment role to assess, pursuant to the Tribunal's practice note for the case book method, whether the research submitted for the case book is complete and of a required standard. Again, that Tribunal member's remuneration while undertaking this work continues to be paid on a per diem basis at the member's ordinary rate.

No Tribunal member is commissioned to undertake research into a claim when the member is sitting as a member of the Tribunal hearing that claim. The reason Tribunal members have been engaged in research and quality assurance work is due to their recognised expertise which is considered to add value to the Tribunal's processes. The culmination of their work is the presentation of completed Tribunal reports, supported by quality research, and a reliable case book.

**18 Apr, Hansard Question Supplement Vol 27, p2015**  
**Written Question 8198**

Hon JIM SUTTON to the Minister of Fisheries: Is he advised that the exercise of Maori customary rights in New Zealand's inshore fisheries complies in all cases with the finding by the Waitangi Tribunal that "All users must be bound by reasonable state laws for overall resource management and protection"?

ANSWER :

Hon JOHN LUXTON (Minister of Fisheries) replied: The exercise of customary rights in fishing must be subject to the sustainable utilisation of fisheries. Maori exercising customary rights are not exempt from acting in accordance with any rules set to ensure a particular fishery will be sustainably utilised. The draft customary fishing regulations, which are being developed to manage the taking by Maori of fish for customary purposes and which were developed by a Joint Crown Maori Working Party, makes specific provision for me to intervene where I believe that a customary fishing area or mataitai reserve is not being sustainably managed. The draft regulations propose that after consultation with Iwi, that I be able to develop a management strategy that will ensure the fishery will be sustainably managed and that such a strategy must be adhered to until such time as I am satisfied, after consultation with the Iwi that the customary fishery is being managed effectively.

**21 Apr, Hansard Question Supplement Vol 28, p2017**

**Written Question 8201**

Hon PHIL GOFF to the Minister for Courts: To what does the Waitangi Tribunal attribute the length of time taken in moving to hearings on Maori claims?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The Waitangi Tribunal does not hear claims seriatim. The Tribunal groups related claims for concurrent inquiry. The Tribunal requires all matters to be researched to a sufficient level before the inquiry commences. The necessary preliminary research is assembled in a casebook. The length of time taken in moving to hearing on claims, therefore, is dependent on:

- the number of related claims grouped for hearing at the same time;
- the number and complexity of historical and contemporary grievances and issues which need to be researched;
- the availability of human and financial resources to carry out the necessary research;
- the ability of claimants to obtain resources to engage legal representation, and the preparatory work then carried out by counsel;
- the readiness of all parties (including the Crown) to proceed.

**21 Apr, Hansard Question Supplement Vol 28, p2018**  
**Written Question 8202**

Hon PHIL GOFF to the Minister of Finance: Are delays in the submission of research by the Crown Forestry Rental Trust a factor in the time taken by the Waitangi Tribunal in moving to hearings on Maori claims; if so, what steps does he intend to take to speed up the research process?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: No.

**21 Apr, Hansard Question Supplement Vol 28, p2018**  
**Written Question 8204**

Hon PHIL GOFF to the Minister of Finance: In what ways, besides research, does the Crown Forestry Rental Trust assist Maori applicants, how is this additional assistance monitored, to whom does it go, and what is the average payment per beneficiary?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: The Trust also provides funding and support for claimant groups to prepare oral histories, negotiate the claim with the Crown or present the claim to the Waitangi Tribunal. The Trust also provides information to claimants on the Treaty process. This assistance is given in accordance with the criteria for funding established by the Trust, and is paid in instalments. Claimant groups are required to provide

progress reports in order for the next instalment of agreed funding to be released. The average payment to claimant groups for assistance in areas other than research is approximately \$200,000. Obviously the actual amount will depend on the individual circumstances of the claimant group.

**21 Apr, Hansard Question Supplement Vol 28, p2018**  
**Written Question 8205**

Hon PHIL GOFF to the Minister of Finance: How was the Crown Forestry Rental Trust's secretary, Karen Waterreus, able to provide James Weir of the Dominion (26 March 1997, p. 14) with the figure of an average payout to Maori claimants of \$500,000 per claim, yet seemed unable to provide the Minister of Finance and Members of **Parliament** with such a statistic to his answer to written question No. 6397 (1997) to Honourable Phil Goff?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: The written question No. 6393 (1997) from the honourable Phil Goff to the Minister of Finance asked for the average payment per researcher, which was information the Trust was unable to provide. The question did not ask for the average payment to Maori claimants. The Dominion article does not say that the average payout to Maori claimants is \$500,000 per claim. Rather it states ``It could take an average of about \$500,000 for a group to prepare a claim to take to the Waitangi Tribunal''. Given the multiplicity of Treaty claims and their varied size and nature, I do not think it is helpful for me to speculate about the average cost of their preparation.

**23 Apr, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 559, p1199**  
**Answers to Oral Questions – Waitangi Tribunal – Hearings**

Waitangi Tribunal---Hearings

8. Hon. JIM SUTTON (NZ Labour---Aoraki) to the Minister for Courts: Is it correct that owing to resource constraints the Waitangi Tribunal is not having any further hearings this financial year and has consequently cancelled hearings scheduled for April, May, and June; if so, does he regard that as consistent with the coalition agreement to adequately resource the Waitangi Tribunal?

Hon. D A M GRAHAM (Minister for Courts): No, that is not correct. The Waitangi Tribunal has further hearings scheduled to take place in the current financial year and none of these hearings has been cancelled. At this stage of the financial year it is common practice to manage financial resources closely. As part of the process an assessment was made of the hearings schedule, and a decision was reached that it was not necessary to cancel any hearings this financial year.

Hon. Jim Sutton: How does the Minister reconcile that answer with the written advice of the acting registrar of the tribunal on 16 April that: ``Owing to resource constraints, all hearings scheduled to be held after 24 April must be deferred until after the start of the new financial year on 1 July.'''?

Hon. D A M GRAHAM: That is a matter that the chief executive is discussing with the letter-writer at 3 o'clock this afternoon. The

tribunal itself is responsible for setting the agenda and the cases to be processed, and the tribunal has advised the chief executive that it gave no direction whatever that hearings would be cancelled.

Sandra Lee: Can the Minister explain what page 47 of the coalition agreement meant when it committed to "adequately resourcing the Waitangi Tribunal", by telling the House exactly how much additional funding has been provided to the tribunal since New Zealand First joined the coalition Government, or was that undertaking on page 47 similar to Tau Henare's commitment never to serve in a Bolger-Shipley Government?

Hon. D A M GRAHAM: Any funding of the Waitangi Tribunal is a matter for the Budget, and that is the matter that is under consideration at the present time.

Hon. Jim Sutton: Can the Minister confirm that unlike in other recent years the Waitangi Tribunal has recently been turned down for the supplementary estimates round, and that is the reason for this total confusion amongst officials as to whether the tribunal can get on with any more hearings before the next financial year?

Hon. D A M GRAHAM: The tribunal overcommitted above budget \$400,000 of research costs. It is true that the Department for Courts discussed the matter with the registrar, and officials relating to the Waitangi Tribunal, to see whether that money could be recovered or whether it would have to be found within the vote for the Department for Courts generally. It was decided that it was not appropriate to cancel any of the hearings and they will proceed.

Hon. Jim Sutton: I seek the leave of the House to table two letters from the Acting Registrar of the Waitangi Tribunal to parties with proceedings that had been set down advising them that their proceedings are cancelled until the next financial year.  
Documents, by leave, laid on the table of the House.

**1 May, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Supplementary Order Paper 273  
Treaty of Waitangi Amendment Bill (First Reading)**

**15 May, Hansard Question Supplement Vol 28, p2295  
Written Question 9146**

DOVER SAMUELS to the Minister of Finance: How many reports have been produced by claimant groups for the Crown Forestry Research Trust since it was established, what are these reports called, what areas do they cover, and how much funding was allocated for each report?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: I assume the question relates to research reports. The research reports produced by the claimant groups are not produced for the Crown Forestry Rental Trust but for the claimants themselves in order to progress their claims. I do not know the names or precise funding that has been allocated to the production of these reports. The Trust considers a research plan for each claimant and approves funding at a level considered necessary to produce the relevant report or reports. This funding is released in instalments on the achievement of milestones towards completion of the report. The Trust encourages the claimants to share research with other agencies such as the Waitangi Tribunal

and the Office of Treaty Settlements and final research reports are filed with the Waitangi Tribunal for claim hearings. The research reports outline the perceived Treaty breaches with respect to land currently held subject to Crown forestry licences, which range from the Aupouri forest in Northland to the Sloedown forest in Southland.

**20 May, Hansard Question Supplement Vol 28, p2345**  
**Written Question 9293**

Mr FRANK GROVER to the Minister in charge of Treaty of Waitangi Negotiations: Given the purchase by the Government of the Harrison, Titford and Aranga farm properties, all of which contain wahi tapu and have been recommended by the Waitangi Tribunal for return to the Te Roroa iwi, why is Government refusing to purchase and return the small Taharoa Native Reserve block of some five acres of Mr and Mrs Basil and Nancy Finlayson which likewise contains wahi tapu and has been recommended for return to Te Roroa?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied:

1. The Government purchased the Aranga farms in 1996 because it recognised the unique situation in which the owners had been placed following the Waitangi Tribunal's report on the Te Roroa claim. The Aranga farms have not been purchased for return to Te Roroa and the Government has not accepted that there are any specific wahi tapu on the farms that should be returned to Te Roroa.

2. The Government purchased the Titford and Harrison properties in order to acquire two specific wahi tapu sites. The Crown accepted during the course of the Waitangi Tribunal hearings that these sites had been acquired in breach of Treaty principles and should be returned to Te Roroa. Return of these sites is considered essential to settlement of the Te Roroa claim.

3. In relation to the former Taharoa Native Reserve (originally 250 acres), the Government does not accept that the 5 acre block now owned by the Finlaysons is a wahi tapu, or that its return is essential to settlement of the Te Roroa claim. The particular circumstances therefor do not justify an exception to the general policy that the Crown should not purchase private land for use in Treaty settlements. If, following any settlement between the Crown and Te Roroa, the claimants wish to use part of the settlement to acquire land from third parties on a willing seller-willing buyer basis, this is a matter between Te Roroa and the Finlaysons.

**4 Jun, Hansard Question Supplement Vol 28, p2522**  
**Written Question 9963**

DOVER SAMUELS to the Minister in charge of Treaty of Waitangi Negotiations: How does he intend to settle the 55 major Maori claims in the Taitokerau which cover about 1.1 million hectares, and what are the available options that have been presented to him so far on possible ways to settle claims in this region?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The claims in the Taitokerau are at different stages of development. In Muriwhenua the Waitangi Tribunal Report has been released and I have advised claimants that the Government is considering the report. While the Government has not yet formally considered any options in respect of settling these claims, I am hopeful that the claims can be settled by negotiations. The Government is keen to start negotiations soon.

The claims South of Muriwhenua are generally still under historical research. The Crown will consider negotiating them when a Tribunal report is released or in response to completed research tabled with the Crown by a claimant group.

**11 Jun, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 560, p2226**  
**Answers to Oral Questions – Maori – Rights**

Maori---Rights

9. PATRICIA SCHNAUER (ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Does he believe that his statement that `` Sometimes Parliament will take away rights and extinguish them and if it does, then that is that. So when Parliament enacted land laws in the last century it is generally accepted that customary or aboriginal title to land was extinguished." is consistent with proposed Government legislation such as the Maori Reserved Land Amendment Bill, which recognises extinguished land rights of Maori and at the same time takes away Government-guaranteed land rights of lessees?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The land rights to which I referred in the published article are customary or aboriginal rights. They existed prior to the settlement of New Zealand by Europeans. They are not the same as the leasehold and freehold property rights created after the arrival of settlers, which are the subject of the Maori Reserved Land Amendment Bill. There is no inconsistency between the process of extinguishment of aboriginal title rights, as outlined in my article, and proposed legislation such as the Maori Reserved Land Amendment Bill. Last century the Crown entered into perpetually renewable leases on behalf of the Maori owners, which meant that those owners would never gain possession of their own land. That is clearly unfair, and over the past few years the Government has been negotiating both with the owners and with the lessees to find a solution, resulting in the Bill now before Parliament.

Patricia Schnauer: As there is an opportunity in treaty settlements to resolve outstanding issues, including customary rights, why does the Minister not work to abolish remaining customary rights, if any, as part of those treaty settlements so that there is one law for all New Zealanders?

Hon. D A M GRAHAM: To the extent that those customary and aboriginal title rights still exist---and they do so only in limited areas---it may well be that it is not only unnecessary to extinguish them but vastly better to actually recognise them and put them into practice in today's world. That was the conclusion of the royal Canadian commission of inquiry on aboriginal rights in Canada, and we have endeavoured to respect those rights wherever we can. If we wish to extinguish those rights---if that were thought to be necessary---then not only would we have to settle historical claims

where they have been breached and pay compensation appropriate to that, but we would also have to pay compensation for the taking away of the rights, which could be done only with the consent of Maori unless it were in the national interest, and we would have to pay compensation after due consultation. I do not think that that is necessary. I doubt very much whether the recognition of those customary rights in today's world will cause any inconvenience to anybody else.

Gerry Brownlee: Can the Minister give the House some examples of customary rights that are recognised by statute?

Hon. D A M GRAHAM: I suppose the most obvious one arose in the trout case that was recently determined by the District Court. Section 26ZH of the Conservation Act provides: ``Nothing in this Part of this Act shall affect any Maori fishing rights." It cannot be any clearer than that. Another example is the regulations passed under the Fisheries Act relating to the Crown Titi Islands authorising Ngai Tahu and nobody else to take mutton birds from the Crown Titi Islands and the Beneficial Islands. So there are examples where Parliament not only has not extinguished them but has actually recognised them and protected them in legislation, whether they are superior or subordinate.

Hon. Jim Sutton: Does the Minister accept that although Parliament can extinguish legal rights by legislation it cannot extinguish its own moral obligations so easily, and that that is why successive Governments have sought to negotiate fair settlements of grievances arising from earlier actions by Governments that now seem to be unconscionable?

Hon. D A M GRAHAM: I think there is considerable merit in that argument. I think all parliamentarians, and indeed at any time Parliament as a whole, would endeavour to act responsibly and act as a good Government. That does sometimes have a moral imperative rather than a legal one. What we have to do is to act in the best interests of all New Zealanders. We do not want to try to make everybody exactly the same. We ought to revel in our differences and learn to live with each other with great tolerance.

**17 Jun, Hansard Question Supplement Vol 28, p2622**  
**Written Question 10337**

DOVER SAMUELS to the Minister in charge of Treaty of Waitangi Negotiations: How much funding has been provided to Te Runanga o Muriwhenua to research the Muriwhenua land claim, and what has this funding been spent on specifically?

ANSWER :

Hon J LUXTON (Acting Minister in charge of Treaty of Waitangi Negotiations) replied: The Waitangi Tribunal provided Te Runanga o Muriwhenua \$50,000 in 1989 for the purpose of researching the land claim and pursuing its case before the Waitangi Tribunal. According to recent figures released by the Crown Forestry Rental Trust, the Trust has provided Te Runanga o Muriwhenua with \$1,469,588 for researching its claim relating to the Te Aupouri State Forest. I understand that Te Runanga o Muriwhenua tabled audited statements at its last AGM. These will indicate how its income has been spent.

**22 Jul, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 562, p3194**

**Answers to Oral Questions – Treaty Claims – Muriwhenua Claim**

**31 Jul, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 562, p3528**

**Answers to Oral Questions – Treaty Claims – Ngai Tahu Settlement**

Treaty Claims---Ngai Tahu Settlement

10. PETE HODGSON (NZ Labour---Dunedin North) to the Minister in charge of Treaty of Waitangi Negotiations: Is he able to offer an assurance that the Ngai Tahu settlement will not result in any limiting of access to any South Island mountain summit?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): Negotiations are continuing with Ngai Tahu. There will be no restrictions on the access to the summit of any South Island mountain.

Pete Hodgson: Can the Minister therefore confirm that an internal Department of Conservation memo from the manager of protection of use within the Department of Conservation, which talks about the possibility of limiting access to some or all summits, is definitely wrong?

Hon. D A M GRAHAM: Yes, I can, and the regional conservator has withdrawn that draft statement.

Gavan Herlihy: Have the Ngai Tahu negotiators ever suggested that people be prohibited from climbing to the summit of any peak in that mountainous wonderland commonly known as the Otago electorate or, indeed, any other summit in the South Island?

Hon. D A M GRAHAM: No, they have never suggested any such thing.

Jeanette Fitzsimons: Will the Minister consult affected recreational and conservation interests before formulating the Crown's negotiating position in future treaty claims in order to ensure the widest possible public support for the fair settlement of treaty grievances?

Hon. D A M GRAHAM: We have involved the environmental groups from the South Island for about 3 years now, and it would be our intention to do so when it is appropriate in other settlements.

**6 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 562, p3605**

**Answers to Oral Questions – Multilateral Agreement on Investment – Treaty of Waitangi**

Multilateral Agreement on Investment---Treaty of Waitangi

6. SANDRA LEE (Co-Deputy Leader---The Alliance) to the Minister of Maori Affairs: Was it on his advice that Te Puni Kokiri rather than iwi authorities and other Maori organisations were consulted by the Ministry of Foreign Affairs and Trade and Treasury on the implications of the proposed multilateral agreement on investment on the Treaty of Waitangi?

Hon. TAU HENARE (Minister of Maori Affairs): No. However, at a recent presentation I gave to staff at the Ministry of Foreign Affairs and Trade, the question was asked as to who the ministry should consult on treaty implications of the proposed multilateral agreement on investment. My response was that the ministry should contact Te Puni Kokiri in the first instance, for advice on appropriate Maori interests to be consulted on this matter.

Sandra Lee: Given that the Court of Appeal has recognised that there is a treaty duty to consult Maori on truly major issues, is the



Minister not aware therefore that the representatives from the Ministry of Foreign Affairs and Trade are of the view that his direction was to consult purely with the Crown ministry, namely Te Puni Kokiri, in lieu of any further iwi consultation on this crucial matter?

Hon. TAU HENARE: As I said in my first response, the Ministry of Foreign Affairs and Trade should contact Te Puni Kokiri in the first instance for advice about who the Ministry of Foreign Affairs and Trade should consult on issues pertaining to the multilateral agreement on investment.

Rana Waitai: Is it standard practice that all Government agencies consult Te Puni Kokiri in the first instance, as the principal adviser to the Crown on treaty issues, wherever wider consultation with Maori interests may be required?

Hon. TAU HENARE: Yes.

Hon. Jim Sutton: As the Minister apparently did not pass them on, can he explain his consistent resistance to the participation of representative Maori organisations in the day-to-day consultative processes of government, when he himself was such an advocate for that until he became the Minister?

Hon. TAU HENARE: Given that that person really does not understand anything about Maoridom, again my response to that person, who did not hear the first two responses, is that when the Ministry of Foreign Affairs and Trade is asked to consult with Maori, it should consult the Crown's principal adviser on treaty issues, Te Puni Kokiri, so that it can get the list of people whom that ministry should consult. If that is not as clear as it should be to that member over there, maybe the portfolio should go to a Maori instead of a farmer.

**7 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 562, p3712**

**Answers to Oral Questions – Multilateral Agreement on Investment – Treaty of Waitangi**

Multilateral Agreement on Investment---Treaty of Waitangi

11. SANDRA LEE (Co-Deputy Leader---The Alliance) to the Minister of Maori Affairs: Given his statement in the House yesterday that he had asked officials to consult with Te Puni Kokiri in the first instance, is it his and the coalition Government's intention to consult with Maori on the Treaty of Waitangi implications of the proposed Multilateral Agreement on Investment; if so, when will the consultation process commence?

Hon. WINSTON PETERS (Treasurer), on behalf of the Minister of Maori Affairs: The issue of public consultation on the proposed Multilateral Agreement on Investment is an issue that the Minister of Foreign Affairs and Trade would be in a better position to respond to. However, the Government will be advised by officials as to whether there is a need for consultation and the nature of that consultation. I might mention that if New Zealand signs the Multilateral Agreement on Investment the agreement will contain the clear codicil or caveats of the coalition agreement between National and New Zealand First. I might also add that in the Treasury we have two people who are part Maori; that is a bit of consultation for a kick-off.

Sandra Lee: Given that the Alliance caucus has been briefed by officials on the proposed agreement and some of its implications, does the apparent unwillingness of the Minister of Maori Affairs to

require that Maori organisations and iwi authorities are consulted indicate the priority with which the coalition Government and the Minister of Maori Affairs view the treaty implications of this proposed agreement?

Hon. WINSTON PETERS: The member is drawing a long bow there. The reality is that in this House there are for the first time 15 members of Parliament of Maori extraction. In fact there are five members of Maori extraction in the five Maori seats---I might add that they are all from New Zealand First---all of whom are part and parcel of the consultation process. It is they who represent the Maori people in the five Maori seats, and not that member over there. Her party had a Maori member and she could not work with her. In fact, Alamein Kopu said: ``They all hate each other." The reality is that we are going about the process of consulting with our Maori members, directly elected by the Maori people, and this agreement---if it is signed---will be signed in the interests of all New Zealanders, European, Maori, Asian, and Polynesian.

Arthur Anae: What benefits for Maori does the Minister expect to follow from the signing of the Multilateral Agreement on Investment?

Hon. WINSTON PETERS: The agreement will provide for the freer flow of international capital along the lines that the coalition agreement specifies. Not only will Maori and non-Maori alike benefit from the increased employment and economic growth resulting from the increased investment in the New Zealand economy, but New Zealanders will also benefit from the increased exports resulting from greater investment by New Zealand firms in foreign companies. But we will never, no matter how much consultation we engage in, be able to facilitate an accommodation with the Alliance and its A plus B theories or all its views on how it will generate the investment and growth in this economy from within its own country and by its own people at this point in time. That of course, if they are concerned about that, is why we need a retirement savings scheme.

Mr SPEAKER: Let us not get on to that subject now.

Mr Dover Samuels: For a moment there I thought that the Treasurer was asking for a snap election, and we were going to support him. How does the Minister of Maori Affairs reconcile his statement that Te Puni Kokiri is the official adviser to the Government on Maori issues with the fact that his officials have a track record of not consulting with Maori on important issues such as the appointment of Maori commissioners to the four Maori development commissions or the marginalisation of Maori broadcasting?

Hon. WINSTON PETERS: I can only assume that that question was couched in 1984-1990 terms when so much Maori support for the Labour Party was lost. That is why today it has no members in the Maori seats at all. Consultation has always been in the first instance with the Ministry of Maori Development, and that is the way it is at the current time---plus, of course, we have the added advantage in this Government of having five Maori members elected from the constituency electorates to represent the Maori people, and when they speak---unlike the member who asked the question---it is with the authority of the people. That is the difference.

**8 Aug, Hansard Question Supplement Vol 28, p3159**  
**Written Question 12136**

DOVER SAMUELS to the Minister of Finance: Is he satisfied

that the Crown Forestry Rental Trust is not impeding the treaty settlement process by providing an unsatisfactory service to many Maori claimants?

ANSWER :

Rt Hon BILL BIRCH (Minister of Finance) replied: Yes. The Crown Forestry Rental Trust has provided funding to assist claimants to prepare, present, and negotiate Treaty claims to Crown forest land as set out in the Trust Deed. The Trust has established relationships with other Treaty sector agencies, such as the Waitangi Tribunal and the Office of Treaty Settlements, to assist the coordination of research, hearing and negotiating of Treaty claims to Crown forest land. In addition, I have been working with the Maori Appointors and the Trust to continue to improve the flow of accountability and information from the Trust.

**8 Aug, Hansard Question Supplement Vol 28, p3160**  
**Written Question 12137**

DOVER SAMUELS to the Minister in charge of Treaty of Waitangi Negotiations: How does the Government intend to use the Rangahaua Whanui reports, recently completed by Waitangi Tribunal staff?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Crown's acceptance that Treaty breaches have occurred largely depends on an assessment of claim specific research. The Rangahaua Whanui reports in themselves are not specific enough for such determination to be made. They do however provide a platform of research on which claim specific research can be based. This should enable claimants to complete their research more quickly in future. I understand the Waitangi Tribunal has taken this into account in planning its programme of regional inquiries through to 2000/1. The Office of Treaty Settlements in turn uses the Tribunal's programme to assess approximately when claims will be ready for negotiation.

12138. Transferred---see question 12136.

**12 Aug, Hansard Question Supplement Vol 28, p3179**  
**Written Question 12203**

Dr MURIEL NEWMAN to the Minister for Courts: In the 1996/97 financial year, how many staff did the Waitangi Tribunal employ, of those how many had policy development as a prime responsibility, what was the total cost of salaries, the total of operation, and how much money was spent on consultants?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: During the financial year 1996/97, the number of staff employed at the Waitangi Tribunal varied. However, as at 9 July 1997 there were 48 full-time equivalents employed at the Waitangi Tribunal. No staff at the Waitangi Tribunal are involved in policy development. The total

personnel costs, including salaries, in the Waitangi Tribunal unit of the Department for Courts for the 1996/97 financial year was \$1,915,285. The total operational expenditure in the Waitangi Tribunal unit of the Department for Courts for the 1996/97 financial year was \$4,528,994, which includes the personnel and third party costs referred to separately in this reply.

For the purposes of financial reporting, external researchers commissioned by the Waitangi Tribunal are classified as consultants. In the 1996/97 financial year the cost of externally commissioned research was \$856,478. Other services, including part time personnel, outsourcing word processing services, architectural fees, legal fees, photography, occupational safety and health assessments, and two short term management consultancies cost \$83,775.

**20 Aug, Hansard Question Supplement Vol 29, p3352**  
**Written Question 12728**

Dr MURIEL NEWMAN to the Minister for Courts: In the 1996/97 financial year, what was the total cost of salaries and the total cost of operations of his department, giving the totals for each separate division and for the department as a whole?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The following table sets out the total costs of personnel (salaries) and of operations for the Department for Courts for the 1996/97 financial year.

Business Unit (Division)	Personnel	Operating	Total
	\$	\$	\$
	(000)	(000)	(000)
Corporate .. .. .	5,471	10,804	16,275
Maori Land Court .. .. .	5,113	2,166	7,279
Waitangi Tribunal .. .. .	1,915	2,614	4,529
Case Processing .. .. .	43,569	113,366	156,935
Collections .. .. .	15,627	21,036	36,663
Total .. .. .	71,695	149,986	221,681

**10 Sept, Hansard Question Supplement Vol 29, p3523**  
**Written Question 13269**

Hon JIM SUTTON to the Minister for Courts: What is he doing to restore the Waitangi Tribunal's credibility, in the wake of criticism by Professor Bill Oliver, and other eminent historians, of its findings on early Muriwhenua land sales, some aspects of which they describe as extreme, exaggerated, risky and inaccurate?

ANSWER :

Hon D A M GRAHAM (Minister for Courts) replied: The brief critique of the Waitangi Tribunal's Muriwhenua Land Report by Professor Bill Oliver does not present any credibility problems for the Tribunal. Indeed, it is extremely positive that the Tribunal's reports stimulate healthy debate on large and complex issues.

Professor Oliver began his critique by noting that if academic historians need a reminder that they do not have a corner on the past

then they could not do better than read the Waitangi Tribunal's Muriwhenua Land Report, which he described as a formidable and elaborate intellectual construct that merited more lengthy examination than that contained in his brief critique. Professor Oliver concluded by observing that the Muriwhenua Land Report presents an array of arguments that he did not take issue with and which supports the Report's conclusions.

The meticulous and thorough manner in which the Waitangi Tribunal investigates and reports on claims provides all New Zealanders with an invaluable resource from which mature debate and reflection is possible and which allows resolution and reconciliation to be key elements in the settlement of claims so that our unique society can move positively into a better future.

**16 Sept, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 563, p4293**

**Answers to Oral Questions – Multilateral Agreement on Investment – Treaty of Waitangi**

Multilateral Agreement on Investment---Treaty of Waitangi

9. SANDRA LEE (Co-Deputy Leader---The Alliance) to the Minister of Maori Affairs: Has he received advice from his ministry that the treaty interests of Maori may not be adequately protected in the negotiation of the proposed Multilateral Agreement on Investment, and that Maori may not have been adequately consulted during negotiation of the agreement?

Hon. TAU HENARE (Minister of Maori Affairs): The Government has not yet reached a final position in relation to the Multilateral Agreement on Investment. However, I strongly favour consultation with the Maori treaty partner before an official position on the multilateral agreement is finalised. I have also received advice from my ministry to that effect.

Sandra Lee: What specific action will the Minister take to implement the ministry's recommendations of 7 August that the Ministry of Foreign Affairs and Trade should undertake a Treaty of Waitangi impact analysis and consult Maori as tangata whenua on the Multilateral Agreement on Investment before the deal is done?

Hon. TAU HENARE: As I said, before the Government has finalised a position on the multilateral agreement we will strongly recommend to Cabinet and to the Government that we take a position on consultation. I must add that consultation is a must, especially given the recent court case involving the Wellington Airport.

Rt Hon. Mike Moore: Is the Minister aware that the Government is not bound to accept this part of the Multilateral Agreement on Investment and can express in technical terms a reservation, thus safeguarding all treaty rights?

Hon. TAU HENARE: The Government is not bound to accept anything at the moment. It does not have a finalised position, and until that position happens we cannot answer those sorts of questions.

Sandra Lee: Does the Minister accept that a general reservation under the Multilateral Agreement on Investment, in relation to the interests of the tangata whenua of this country, will be subject to a roll-back clause and provides no protection whatsoever in perpetuity; if so, what action will he be taking to ensure that there is more protection?

Hon. TAU HENARE: The Government has a number of concerns about the multilateral agreement and, as I said to the Rt Hon. Mike Moore,

until the Government finalises a position we will want to consult as wide a group as possible---especially Maori.

**24 Sept, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 563, p4526**  
**Answers to Oral Questions – Treaty Claims – Ngai Tahu Settlement**

Treaty Claims---Ngai Tahu Settlement

7. DAVID CARTER (NZ National---Banks Peninsula) to the Minister of Conservation: What implications does the final offer on the Ngai Tahu settlement have for his department?

Hon. NICK SMITH (Minister of Conservation): All New Zealanders will benefit from an increase of 34,000 hectares of land for conservation, as a result of that settlement. As part of the settlement, the Government will transfer to Ngai Tahu three high-country stations on the shores of Lake Wakatipu. These are the Routeburn, Elfin Bay, and Greenstone stations. Ngai Tahu will then gift 13,200 hectares of the peaks of that land, and will further transfer by way of lease 22,000 hectares, which will be in Government control in perpetuity at a peppercorn rental. The settlement also transfers some conservation land---under 1,000 hectares---to Ngai Tahu, but the conservation values identified on that land are protected by covenants and the provisions under the Reserves Act.

David Carter: Can the Minister guarantee to the House that the settlement will not result in the reduction of access by any New Zealanders to the South Island mountaintops?

Hon. NICK SMITH: Yes, I can provide that guarantee. Access to all the land on the particular stations that I have referred to is guaranteed. In fact the overall settlement actually improves New Zealand's public right access. The other significant transfer to Ngai Tahu is the title to Aoraki - Mount Cook, which will be immediately gifted back to all New Zealanders by Ngai Tahu. While the covenant respects Ngai Tahu's view that it is inappropriate to stand on the head of Aoraki - Mount Cook, the settlement does not in any way attempt to impose those values on climbers by restricting the access that New Zealanders have previously enjoyed.

Sandra Lee: What are the implications, if any, of the access arrangements that relate to the mahinga kai sites, in particular given the fact that Stephen O'Regan has in the past called for the right to exercise harvesting rights over rare and endangered species such as the native pigeon, kukupa?

Hon. NICK SMITH: In terms of the sensitive issue of cultural harvest, the New Zealand Conservation Authority has recently published a consultative document on that very issue, which is outside of the settlement. In terms of the mahinga kai part of the Ngai Tahu settlement, a range of specific access issues relate to each of those. It is true that for a limited number of wahi tapu sites, amounting to an infinitesimally small part of those conservation lands, there are, for good cultural reasons, restrictions on public access.

Jill Pettis: Will the Minister continue to support the coalition Government's policy of secrecy in future settlements that involve conservation land?

Hon. NICK SMITH: I would very much like to correct the record. I have to tell the member that all the way through the process, my office and the office of the Minister in charge of Treaty of Waitangi

Negotiations have had ongoing consultation with key groups like the Fish and Game Council and some of those conservation interests. However, having said that, I must say to the member that I think it would be incredibly difficult for New Zealand to reach significant treaty settlements such as the Ngai Tahu settlement if it were always the case that the consultative processes, both within Maori and with the Pakeha community, were so extensive that we never got to the point of achieving a deal. That is why there are trade-offs in this difficult area.

**29 Sept, Hansard Question Supplement Vol 29, p3716**  
**Written Question 13960**

JILL PETTIS to the Minister of Conservation: What areas of land managed by the Department of Conservation are subject to claims with the Waitangi Tribunal?

ANSWER :

Hon NICK SMITH (Minister of Conservation) replied: There are currently 684 claims registered with the Waitangi Tribunal. Within these claims it can reasonably be anticipated that a high percentage of conservation land in the country is covered by one claim or another. More accurate information about exactly what areas are covered by claims before the Tribunal is not available.

If Ngai Tahu accept the offer recently put to them following negotiations with the Government, more than half of the conservation land in the country will be removed from being under claim. Some conservation land is being returned to Ngai Tahu; however, much of the redress offered provides an increased role in management and recognition of Ngai Tahu associations and values over conservation land, rather than the transfer of ownership.

The Tribunal is unable to make binding recommendations about land managed by the Department of Conservation. Any redress offered in respect of conservation land will be provided through the negotiations process. In offering any redress over conservation land, it is current government policy that it will be guided by the published Crown Proposals for the Settlement of Treaty of Waitangi Claims. In general terms, under this policy, conservation land should not be returned to Maori to settle claims and the rights of the public to use the conservation estate should not be affected as a result of Treaty settlements. Some specific sites of special significance and importance to Maori could still be considered for return.

**29 Sept, Hansard Question Supplement Vol 29, p3717**  
**Written Question 13961**

JILL PETTIS to the Minister of Justice: Why has the Government reversed the policy not to use land administered by the Department of Conservation to settle Waitangi Tribunal claims?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi

Negotiations) replied: The Government has not, in fact, resiled from its position on the use of conservation lands in the settlement of Waitangi Tribunal claims. The Government maintains its general policy approach in this area. This is that lands with important conservation values are not readily available for return to Maori. Only a limited number of properties administered by the Department of Conservation and which are of very special significance to Maori will transfer to them in a claim settlement. Where appropriate, the lands will be subject to covenants to protect public access and conservation values.

**16 Oct, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 564, p4797**

**Answers to Oral Questions – Treaty Claims – Taranaki Iwi**

Treaty Claims---Taranaki Iwi

5. Hon. ROGER F H MAXWELL (NZ National) to the Minister in charge of Treaty of Waitangi Negotiations: Is the Government intending to negotiate treaty claims with iwi of Taranaki or with individual hapu of the iwi?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Government intends to negotiate the settlement of Treaty of Waitangi claims in the Taranaki region with only the iwi of Taranaki. The Government does not intend to negotiate with individual hapu, as was incorrectly reported in the Dominion on 14 October. I note that on 15 October, the Dominion published a correct account of the Government's position on this matter. To date the Crown has recognised mandates of five of the eight generally recognised iwi of Taranaki, with the most recent mandate accepted being that of the Te Atiawa Iwi Authority. Good progress is being made in the Taranaki region, and it is hoped that formal negotiations will commence with some of the northern iwi before the end of the year.

Hon. Roger F H Maxwell: What happens when one hapu of an iwi disagrees with other hapu in that particular iwi, and, where there is such disagreement, will he proceed with negotiations with other iwi to come to some agreement over these matters?

Hon. D A M GRAHAM: There are occasions when hapu within an iwi do disagree, and that has been the case, for example, in Te Atiawa for some time. In fact, for the last year or 18 months we have been encouraging Te Atiawa to work together. Unfortunately, one of the hapu still appears to stand aside. We have reached the conclusion that it is not fair on the other hapu to be held up indefinitely. Therefore, we propose to proceed with the mandated authority, and we will reserve a position at the table for the dissident hapu.

Hon. Jim Sutton: Why does the Minister refuse to negotiate with hapu when, after all, it was hapu who signed the treaty, not iwi, and some hapu have lost far more than other hapu in the same iwi?

Hon. D A M GRAHAM: The simple reason is that there are probably many hundreds of hapu throughout the country. In fact, they may total 1,000. It is simply not possible to negotiate with individual hapu.

**21 Oct, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 564, p4838**

**Answers to Oral Questions – Multilateral Agreement on Investment – Treaty of Waitangi**

Multilateral Agreement on Investment---Treaty of Waitangi

2. Rt Hon. MIKE MOORE (NZ Labour---Waimakariri) to the Prime



Minister: Will the Government ensure that it expresses reservations in the Multilateral Agreement on Investment to preserve Treaty of Waitangi principles; if so, do both coalition partners support this agreement?

Hon. WINSTON PETERS (Acting Prime Minister): The member should already be aware that the draft Multilateral Agreement on Investment includes a reservation that ensures the agreement will not affect any activity under the Treaty of Waitangi. The text of this reservation has been discussed with Te Puni Kokiri, and further consultation with all New Zealanders is planned. By consultation, we will end the shoddy campaign of misinformation and misrepresentation conducted by certain commentators and politicians. This Government supports initiatives that are clearly beneficial to the economy and to New Zealanders. A decision on signing the Multilateral Agreement on Investment will be made only after the consultation process is completed.

Rt Hon. Mike Moore: How was it that just yesterday the Minister of Maori Affairs was able to say that the proposed treaty did not yet have his support; and can I congratulate the Minister on running a campaign to weed out those people who oppose foreign investment, because one in three jobs in New Zealand is related to foreign investment?

Hon. WINSTON PETERS: The answer to that question lies with the members behind the questioner. The Maori members of the Labour Party went to a select committee and kicked up bobsy-die on this issue. We decided that we would show some leadership, unlike the Labour Party, and better inform them. If we can share with the public the information and, indeed, the draft itself---

Rt Hon. Mike Moore: The member's own Minister of Maori Affairs, only yesterday---

Hon. WINSTON PETERS: Concerns may be validly raised. Our job is to ensure that we take the community with us on this matter.

Hon. Derek Quigley: Will the Acting Prime Minister give the country an assurance that there will be a clear definition of and agreement on the principles of the Treaty of Waitangi, before their relevance to the Multilateral Agreement on Investment is considered?

Hon. WINSTON PETERS: Indeed, one of the issues we have to consider is whether people want to make progress or make further definition clear on the Treaty of Waitangi, and a document of international ramifications is appropriate. This is a valid and legitimate cause for debate. If the member wishes to make submissions to the Government, we will welcome them.

John Carter: When does the Government propose to share information with the public of this country in respect of the draft Multilateral Agreement on Investment report?

Hon. WINSTON PETERS: In the interests of open Government, for which we are renowned, we will make that information available in the next 7 days.

Sandra Lee: Does the Acting Prime Minister realise that all reservations are subject to roll-back, and that therefore any reservation of treaty issues eventually has to be rolled back, as Te Puni Kokiri told the Maori Affairs Committee, and the only way to protect Maori interests is to vote against and reject the Multilateral Agreement on Investment?

Hon. WINSTON PETERS: We have just heard a classic example of misinformation. There is no such provision in the agreement whatsoever, nor will there be.

Sandra Lee: Bring it into Parliament. Is the member bringing it here?

Hon. WINSTON PETERS: Would the member restrain herself---I am trying to answer the question. At the end of it she may not be any wiser, but she will be better informed. I want to say that the simple case is that no such roll-back provisions exist at all. For that to be so it would be compulsory, and that is not the case.

**12 Nov, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 564, p5277**

**Answers to Oral Questions – Treaty Claims – Coalition Government**

Treaty Claims---Coalition Government

10. Hon. JIM SUTTON (NZ Labour---Aoraki) to the Minister in charge of Treaty of Waitangi Negotiations: What approaches, if any, has he had from the Minister of Maori Affairs about the future of treaty settlements under the coalition Government, and what assurances has he been able to give him in that regard?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): I have not had any direct approach from my colleague on this matter, but I am aware that he has released a press statement indicating a desire that the treaty settlements continue.

Hon. Jim Sutton: In the light of that, has he been asked to modify his approach to treaty claims in any way that would reflect his new leader's statement that Governments must have the courage to distinguish between serious treaty claims and those that are frivolous or vexatious?

Hon. D A M GRAHAM: I am sorry to disappoint the honourable member but I have had no such communication. I certainly have had a lot of communication from members of the public, who go from one extreme to the other.

Georgina te Heuheu: Is the Minister willing to continue as the Minister in charge of Treaty of Waitangi Negotiations?

Hon. D A M GRAHAM: In May 1991 I undertook the task to try to settle the major claims by the year 2000 and I intend to carry on, so long as I am wanted.

Sandra Lee: Can the Minister assure the House that future settlements, in particular so-called smaller claimant groups, will be assured settlements based on merit rather than on any fiscal-envelope formula, which Maori have rejected but which is still covertly being applied?

Hon. D A M GRAHAM: I can assure the honourable member that the settlements are based on merit, but they obviously have to come within the ability of the country to afford settlements. The removal of the fiscal envelope was done on the basis that fiscal prudence would be exercised, that the existing settlements would not be reopened, and that they would be used as benchmarks.

**26 Nov, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 565, p5664**

**Answers to Oral Questions – Treaty Claims – Private Property Rights**

Treaty Claims---Private Property Rights

9. OWEN JENNINGS (ACT NZ) to the Minister of Maori Affairs: Does he oppose the taking of private property rights to settle Treaty of Waitangi claims, and what advice has he received about the impact of the Maori Reserved Land Amendment Bill on private property rights?

Hon. TAU HENARE (Minister of Maori Affairs): Yes, but I do not consider the Maori Reserved Land Amendment Bill to be a settlement of a treaty claim or a grievance. The advice I have received indicates that the reforms will place lessees and owners on a more equal footing.

Owen Jennings: If the Minister does oppose the taking of property rights, why on earth are he, his party, and the Government supporting the compulsory removal of property rights from hundreds of farmers and homeowners across the country, under the Maori Reserved Land Amendment Bill?

Hon. TAU HENARE: I think the member should go back to look at the Bill and take cognisance of what the select committee has done in its reading of the Bill. It will report back to the House next week, and maybe then the member can take up the cudgels on behalf of those poor old farmers.

Rana Waitai: In so far as Maori landowners do not enjoy the same rights as other New Zealanders in terms of their ability to charge a normal, commercial rental and to exercise real ownership and control over their own land, does the Minister believe that the current Maori Reserved Land Act is one of the most discriminatory pieces of legislation on the statute book?

Hon. TAU HENARE: Yes.

Mark Peck: Is it the Minister's intention that, in resolving the grievances suffered by Maori landowners, he will not create another injustice to lessees; if so, is he confident that the Bill as it will be reported back to this House achieves that aim?

Hon. TAU HENARE: I can confirm that what I have seen of the select committee's progress report on the Bill leads me to believe that it is a fair settlement for both sides. I can also say that New Zealand First and this Government are not in the business of settling one grievance and creating another.

#### **4 Dec, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 565, p6032**

#### **Answers to Oral Questions – Waitangi Day Celebrations**

Waitangi Day Celebrations

11. MR DOVER SAMUELS (NZ Labour) to the Minister of Maori Affairs: What advice, if any, has his ministry given him on any issues relating to the Waitangi Day celebrations?

Hon. TAU HENARE (Minister of Maori Affairs): None.

Mr Dover Samuels: Has the Minister worked through with the Deputy Prime Minister the issues relating to the funding of Waitangi Day celebrations, and how does he explain to Maori his separatist comments on who should attend Waitangi Day and what language they should speak?

Hon. TAU HENARE: As has been reported in this morning's New Zealand Herald I believe that it is incumbent on Ngapuhi, as the local iwi, to run the show, so to speak. I expect that would bring a lot more sense to the day at Waitangi.

Rt Hon. Helen Clark: Would the Minister agree that the commemoration that took place at Waitangi on 6 February this year was appropriate and went well, and would he be prepared to back that kind of commemoration again?

Hon. TAU HENARE: Like I said, I am of the firm belief that Ngapuhi should be running the show. Ngapuhi---because Waitangi is in their area---should be afforded that respect.

Sandra Lee: What advice, if any, has the Minister of Maori Affairs received from the Tai Tokerau people on their desires or otherwise to see the full celebrations return to Waitangi; if he has received advice, what was it?

Hon. TAU HENARE: On various occasions I have been contacted by the people of Ngapuhi, and they have said to me that they wish the commemoration celebrations to return to Waitangi in full, but not at the expense of decorum. They have said to me that they wish Ngapuhi to lead those celebrations in their area, and that everybody who comes into their area accords them the respect that should be given.

## 1998

### **17 Feb, Hansard Question Supplement Vol 31, p69** **Written Question 263**

Hon JIM SUTTON to the Associate Minister of Health: Is there any recent or current action, policy or practice of his ministry of which there has been any suggestion that it constitutes a breach of the Treaty of Waitangi or the principles thereof?

ANSWER :

Hon TUARIKI JOHN DELAMERE (Associate Minister of Health) replied: As regards the Ministry of Health, there has been no suggestion that any recent or current action, policy or practice of the Ministry of Health has constituted a breach of the Treaty of Waitangi or the principles thereof. However, I am aware that a recent claim (WAI 692), lodged with the Waitangi Tribunal in January of this year and concerning the decision of Healthcare Hawkes Bay Ltd to remove health services from Napier Hospital, alleges that the action is prejudicial to the Maori of the Ngati Kahungunu tribal region.

### **17 Feb, Hansard Question Supplement Vol 31, p70** **Written Question 270**

Hon JIM SUTTON to the Minister of Forestry: Is there any recent or current action, policy or practice of his ministry of which there has been any suggestion that it constitutes a breach of the Treaty of Waitangi or the principles thereof?

ANSWER :

Dr the Hon LOCKWOOD SMITH (Minister of Forestry) replied: The Wai 158 Treaty claim alleges that the Government's indigenous forest policy is a breach of Article Two of the Treaty of Waitangi because of its effects on the owners of land allocated to Maori under the South Island Landless Maoris Act 1906 (SILMA).

Wai 158 was lodged with the Waitangi Tribunal in July 1990. An amendment was lodged in June 1997.

The Waitangi Tribunal Report on Ngai Tahu Ancillary Claims 1995 (pp309-310) discussed the effects of the Crown's indigenous forest policy on SILMA landowners and concluded that, so long as there was

no adequate redress for these effects, there was a continuing breach of the Crown's Treaty obligations.

**17 Feb, Hansard Question Supplement Vol 31, p71**  
**Written Question 272**

Hon JIM SUTTON to the Minister of Internal Affairs: Is there any recent or current action, policy or practice of his department of which there has been any suggestion that it constitutes a breach of the Treaty of Waitangi or the principles thereof?

ANSWER :

Hon JACK ELDER (Minister of Internal Affairs) replied: I am aware that my department administers the Antiquities Act 1975, which the Waitangi Tribunal found to be inconsistent with the Treaty of Waitangi in the Manukau decision. I am seeking a slot on the legislation programme to replace this Act with a Protection of Moveable and Cultural Heritage Bill.

**17 Feb, Hansard Question Supplement Vol 31, p72**  
**Written Question 278**

Hon JIM SUTTON to the Minister in charge of the Valuation Department: Is there any recent or current action, policy or practice of his department of which there has been any suggestion that it constitutes a breach of the Treaty of Waitangi or the principles thereof?

ANSWER :

Hon TUARIKI JOHN DELAMERE (Minister in charge of the Valuation Department) replied: Valuation New Zealand's application of the Valuation of Land Act when valuing certain Maori land has been subject to some external comment that its practises may be in breach of the Treaty of Waitangi. The comments have generally been made in relation to objections to valuations. The issue has also been raised in a small number of claims to the Waitangi Tribunal, the most notable being the Karikari Rating claim.

**18 Feb, Hansard Question Supplement Vol 31, p126**  
**Written Question 437**

Hon JIM SUTTON to the Minister for Courts: What are the precise classifications used to identify the level of preparedness of claims to the Waitangi Tribunal?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: In respect of their preparedness for hearing, claims to the Waitangi Tribunal fall into four general categories. These categories, which do not constitute a formal classification system, are as follows:

1. Registered claims---a registered claim has met the criteria for registration and is given a WAI number to show that it is

registered. At the stage of registration, a claim has not usually been researched and the statement of claim may be quite general.

2. Researched claims ready for hearing---claims ready for hearing have been fully researched and the research has been compiled into a casebook of research reports for a hearing district that is being prepared for hearing.
3. Claims not ready for hearing---these claims are either in the process of being researched or may have been fully researched by claimants but the hearing district is not one presently being made ready for hearing. Because the Waitangi Tribunal is, in monetary terms, a relatively minor funder of claimant research, it is not possible to know the state of preparedness of claimant research claims unless claimants file their research with the Tribunal.
4. Contemporary and specific claims---these claims fall outside the general framework which targets major historical claims. The state of preparedness of these claims usually depends on whether or not the Waitangi Tribunal has granted urgency.

**18 Feb, Hansard Question Supplement Vol 31, p127**  
**Written Question 438**

Hon JIM SUTTON to the Minister for Courts: By year, classification of claim, and region, how many claims have now been lodged with the Waitangi Tribunal as at 1 January 1998?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: As at 1 January 1998, the most recent claim registered with the Waitangi Tribunal was WAI 690. The current information system operated by the Waitangi Tribunal does not classify claims in a manner that enables the claims to be summarised by classification and region. However, the following claim registration dates are noted. WAI 50 (registered 1 December 1988), WAI 100 (registered 3 November 1989), WAI 150 (registered 11 July 1990), WAI 200 (registered 31 May 1991), WAI 250 (registered 11 November 1991), WAI 300 (registered 16 July 1992), WAI 350 (registered 21 May 1993), WAI 400 (registered 26 November 1993), WAI 450 (registered 21 December 1994), WAI 500 (registered 23 April 1995), WAI 550 (registered 31 October 1995), WAI 600 (registered 19 July 1996), WAI 650 (registered 28 January 1997), and WAI 696 (registered 20 January 1998).

**18 Feb, Hansard Question Supplement Vol 31, p127**  
**Written Question 439**

Hon JIM SUTTON to the Minister for Courts: By year, classification of claim, and region, how many claims were lodged with the Waitangi Tribunal between 1 January 1998 and 17 February 1998?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: Nine claims were lodged with the Waitangi Tribunal between 1 January 1998 and

17 February 1998.

The general details of the nine claims are as follows:

- (1) Napier Hospital Services, Napier
- (2) Lands and resources of Waitaha hapu, Te Puke, Bay of Plenty
- (3) Lands and resources of Ngati Rereahu of Maniapoto, King Country
- (4) Native Lands Amendment Act 1914 and alienation of lands, Hauraki
- (5) Invasion of Urewera Lands etc, Urewera
- (6) Alienation of Lands, Northern South Island
- (7) Crown actions and policies in respect of Ngati Kahungunu O Wairarapa Tangata Whenua, Wairarapa
- (8) Lands and resources of Ngati Tahinga Ki Kaipara, Kaipara
- (9) Customary Fishing Regulations, Aotearoa.

**18 Feb, Hansard Question Supplement Vol 31, p127**  
**Written Question 440**

Hon JIM SUTTON to the Minister for Courts: By year, how many claims lodged have not met the requirements of the Waitangi Tribunal and have therefore not been accepted?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: If a proposed claim does not meet the requirements set out in the Treaty of Waitangi Act 1975 then it is not accepted for registration. The Waitangi Tribunal does not keep a separate record of the number of claims that were not accepted for registration.

**18 Feb, Hansard Question Supplement Vol 31, p128**  
**Written Question 441**

Hon JIM SUTTON to the Minister for Courts: By year, how many claims lodged at the Waitangi Tribunal involve a claim over any part of a forest?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: There are approximately 124 claims that expressly involve a claim over any part of a forest. There are other claims, however, that refer to the guarantee to Maori in Article 2 of the Treaty of Waitangi to the "full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties" without specifying whether an actual forest is under claim. In addition, some claims may allege Crown breaches of Treaty principles within a customary rohe without specifying whether an actual forest is under claim. These non-specific claims have not been included in the above total. Whether or not they do involve forests will become clear once amended statements of claim have been filed and once research into the claims has been carried out. It is not feasible to categorise these claims by year.

**18 Feb, Hansard Question Supplement Vol 31, p128**

**Written Question 442**

Hon JIM SUTTON to the Minister for Courts: By year and region, how many claims before the Waitangi Tribunal have completed research and are now ready to go to hearing?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: In 1998 to date there are 29 claims in the Hauraki inquiry district which are ready to be heard by the Waitangi Tribunal and they will be heard later this year. There are 41 claims that have started in hearing this week in Tauranga. Another 37 claims are currently in hearing.

**18 Feb, Hansard Question Supplement Vol 31, p128**  
**Written Question 443**

Hon JIM SUTTON to the Minister for Courts: How many claims to the Waitangi Tribunal are currently being heard by the Tribunal?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: 78 claims are currently in hearing before the Waitangi Tribunal.

**18 Feb, Hansard Question Supplement Vol 31, p128**  
**Written Question 444**

Hon JIM SUTTON to the Minister for Courts: What is the proposed priority list for the hearing of claims before the Waitangi Tribunal for the following two years?

ANSWER :

Hon WYATT CREECH (Minister for Courts) replied: The proposed priority list for researching claims by inquiry districts is set out in the 1997 Business Strategy for the Waitangi Tribunal. That list and the business strategy will be updated in the middle of 1998. In the 1998/99 financial year the following inquiries will be completed: Mohaka ki Ahuriri (17 claims), Wellington Tenth (involving 6 claims), and possibly Muriwhenua. The following inquiries will be on-going or started: Tauranga (41 claims), Kaipara (24 claims), Indigenous Flora and Fauna (Wai 262), and Hauraki (29 claims). New inquiries are likely to be started in the Northern South Island (18 claims) and Gisborne (10 claims) in the 1998/99 financial year.

In the 1999/2000 financial year in addition to those inquiries which are completing or continuing, new inquiries could be started in the Urewera, East Coast, and Wairoa inquiry districts. Others may be made ready by claimant research being completed and brought to the Tribunal.

**25 Feb, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 566, p6742**  
**Answers to Oral Questions – Ngai Tahu Deed of Settlement**



#### Ngai Tahu Deed of Settlement

9. Hon. KEN SHIRLEY (Deputy Leader---ACT NZ) to the Minister of Conservation: Was the New Zealand Conservation Authority consulted prior to the Government signing the Ngai Tahu Deed of Settlement; if not, why not?

Hon. D A M GRAHAM (Attorney-General), on behalf of the Minister of Conservation: Yes. The Minister of Conservation met and briefed the New Zealand Conservation Authority twice during the negotiations with Ngai Tahu. These meetings were in June and September 1997.

Hon. Ken Shirley: Can the Minister confirm that the Conservation Authority first saw the document the evening before the signing, and that it comprises some 3,000 pages; and does he think that was reasonable time and proper consultation?

Hon. D A M GRAHAM: I have no personal knowledge of when the authority first saw the document but, as I remember it, it comprised 1,800 pages rather than 3,000. In any event, I do not know that that is the point. The question was whether there was consultation between the authority and the Minister and his department. The answer is yes. As the negotiations proceeded, I know personally that there was an input from the authority expressing its views on the settlement, and that the settlement deed, once prepared, was made available to it.

Georgina te Heuheu: Can the Minister confirm that the concerns and comments that the authority specifically expressed were taken into account in the negotiations?

Hon. D A M GRAHAM: Yes, I can confirm that.

Jill Pettis: What information has the Minister provided the public with to explain to New Zealanders the conservation aspects of the Ngai Tahu settlement, and what indicators have been used to assess the impact of that information?

Hon. D A M GRAHAM: Once the deed of settlement was signed it was made available to all public libraries, and a consultation process with interested groups, including environmental groups, was held. Indeed, the legislation will be introduced shortly, and I expect others to have a view on that. So the deed of settlement is available, and it was made available on the Internet as well immediately after it was signed.

**5 Mar, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 566, p7048**

#### **Answers to Oral Questions – Waitangi Tribunal**

##### Waitangi Tribunal

2. Hon. Dr MICHAEL CULLEN (Deputy Leader---NZ Labour) to the Prime Minister: What, if anything, is she going to do as Prime Minister to reinforce the mana and authority of the Waitangi Tribunal?

Hon. JENNY SHIPLEY (Prime Minister): I do not consider it necessary to do anything at all to restore the mana or authority of the Waitangi Tribunal. Indeed, it is unchallenged.

Hon. Dr Michael Cullen: How does she reconcile the last part of that answer in particular with conceding to protesters and squatters an inquiry that circumvents the standard procedures under the Treaty of Waitangi and that is clearly going to be an encouragement to other people to take direct action to circumvent those procedures?

Hon. JENNY SHIPLEY: If the member had looked into this case properly, rather than politicking on it, he would know that the matter we have agreed to inquire into is not a matter that is currently before, or being sought to be put before, the Waitangi

Tribunal. This is a dispute about a current, contemporary lease between the Crown and an iwi authority, and also whether the Department of Conservation is a good manager. Bless the Waitangi Tribunal---it has enough on its plate without having to deal with issues that clearly can be dealt with in this way. The Government looked at this matter carefully, did not believe that it in any way required the attention of the Waitangi Tribunal, and decided it was easily able to be resolved in this manner.

Jim Anderton: Given that this issue is a question between lessors and the Department of Conservation, and clearly is not---in the terms that I understand it---a matter for the Waitangi Tribunal, what steps will the Prime Minister take to ensure that the spirit and intention of the original lease between the 10 Maori lessors and the Department of Conservation, which made possible the establishment of the Urewera National Park, is adhered to, as the remaining Maori lessor alive has requested?

Hon. JENNY SHIPLEY: The questioner does get to the nub of the issue. The original lease between I think it was nine Maori people---I stand corrected if it was 10---and the Crown led to the establishment of the national park. A subsequent piece of legislation in this Parliament 5 years later led to the establishment of iwi authorities. The iwi authorities in that area and their beneficiaries became the principal people on the lease without any reference back---or it is alleged without any reference back---to the 10 original people who signed the lease. In there lies the grievance, and we believe it does warrant a ministerial inquiry to look at whether there is any matter that requires attention from this Parliament in response to that request.

Janet Mackey: Given that Ngati Ruapani have sought from the Government an inquiry into the lease of the lake and the contract with the Department of Conservation, can the Prime Minister explain why that courtesy was afforded to Tame Iti, who has the support of neither the Tuhoe Trust Board nor the Ngati Ruapani people?

Hon. JENNY SHIPLEY: In the last fortnight two Ministers have spent considerable time in the area hearing about the issues both from the iwi authority and from the people who have been protesting beside the lake. It is an accumulated set of issues that has led Ministers to decide on a narrow set of terms of reference that we will look at. Some members of the Opposition will not be satisfied unless we have unabated conflict in this country. There are issues here---

Trevor Mallard: How about the rule of law to start with?

Hon. JENNY SHIPLEY: The law, if it has been broken, will be dealt with by the police. But where there is a genuine conflict, it deserves to be looked into, and that is what this Government will do.

Janet Mackey: I raise a point of order, Mr Speaker. I am not sure that I heard right when I thought the Prime Minister said that if the law has been broken it will be dealt with by the police. Can she confirm that?

Mr SPEAKER: I think that is not a point of order.

Rt Hon. Jonathan Hunt: I raise a point of order, Mr Speaker. Now that the question has been completed, I wonder whether you could come back with a considered ruling on the important point that was raised by Dr Cullen---that is, changing the actual words of the question, and how that occurred in the way that it did. I think that quite important point needs to be ruled on by you in a ruling to the House, so that we might know what the rules are for the future.

Mr SPEAKER: I thank the member. I had already made a mental note

to inquire and reflect further on the matter. The resolution of it enabled me to move on for today.

**31 Mar, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 567, p7928**

**Answers to Oral Questions – Treaty Claims – Ngai Tahu Deed of Settlement**

Treaty Claims---Ngai Tahu Deed of Settlement

4. Hon. KEN SHIRLEY (Deputy Leader---ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Do any settled treaty claims include relativity clauses which will be triggered should the Ngai Tahu deed of settlement be passed into law in its present form; if so, which ones?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): No. Neither the Ngai Tahu deed of settlement nor the Ngai Tahu Claims Settlement Bill will trigger any existing relativity clauses.

Hon. Ken Shirley: How then does the Minister explain section 18 of the deed of settlement, entitled ``Relativity Mechanisms'', which requires the Crown every year for the next 50 years to calculate the total address/redress amount, submit that to Ngai Tahu, and then Ngai Tahu are invited to have further ongoing claims; and is that not an invitation for all future settlements to have an equivalent relativity clause?

Hon. D A M GRAHAM: The answer to the question is no, it does nothing of the sort.

Hon. Jim Sutton: How many Ngai Tahu does he believe were disadvantaged by the treaty breaches addressed in the Ngai Tahu Claims Settlement Bill being introduced today, and how many Tainui people were dispossessed by their raupatu; and, in the light of this, does he consider that the two settlements will be equally fair?9

Hon. D A M GRAHAM: Strangely enough, I do not have the exact figures of population then and now. However, I can answer the second part of the question by simply saying that the negotiating parties, including the negotiating team from Waikato Tainui and the negotiating team from Ngai Tahu, believe the settlements to be fair.

Matt Robson: Can the Minister confirm that the Tainui settlement contains a ratchet clause to maintain relativity in the event of the fiscal envelope sum being exceeded?

Hon. D A M GRAHAM: Yes, I can certainly confirm that. The same clause is inserted in the Ngai Tahu settlement. It is important to understand why that is so. If the amount of the redress package in dollar terms is \$170 million, then that would have been 17 percent of the amount set aside by the Government some years ago. If a future Government doubles the amount, or trebles it, and it is available, then clearly Waikato Tainui would not have been getting 17 percent; it might have been getting 8.5 percent, or something less. That would have been totally unfair, and that is the reason for the relativity clause.

**12 May, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 568, pp8424-8435**

**Ngai Tahu (Tutaepatu Lagoon Vesting) Bill** (Third Reading)

Debate mainly focussed on settlement, but *Prebble* takes issue at the fact that a former member of the Tribunal was on the committee who considered the Bill –

I say to the chair of that committee, Georgina te Heuheu, for whom I have a lot of respect, that she should not serve on that committee. Why is that? She was on the Waitangi Tribunal when this case was first brought.

Hon. Nick Smith: She's well qualified, then.

Hon. RICHARD PREBBLE: I put it on the record that the Minister of Conservation thinks that the fact one is already part of the process makes one well qualified. He would not recognise a conflict of interest if he fell over it.

I say to that honourable member that she should not serve on a parliamentary committee that is, in effect, implementing a recommendation from that tribunal. What we as parliamentarians should be doing is examining that tribunal to see whether its rulings were fair. It is our duty, and it is that member's duty, which of course she cannot undertake because she has a conflict of interest.

I understand, although I might be wrong, that Tu Wyllie served on the committee as well. He was the general manager of the Treaty Tribes Coalition that brought the claim. I say to the House that if any other select committee of this House had a conflict of that nature, we would say it was wrong. I believe that it is wrong for us to say that different standards apply to a Waitangi Tribunal claim than apply to any others. I say to members opposite who say that I am prejudiced and racist in raising this issue that I am not. I am applying the same standards to that committee that I would apply to any other committee. Anybody who has been in this House long enough knows that what I am saying is correct. I believe that the Government has made a mistake. I believe that Parliament has made a mistake.

## **2 Apr, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 567, p8155**

### **Answers to Oral Questions – Treaty Claims – Settlement Relativity**

#### Treaty Claims---Settlement Relativity

9. OWEN JENNINGS (ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Does the Government want to dump the relativity clauses in Treaty of Waitangi settlements, as alleged in the Sunday Star Times on 29 March; if not, why not?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The first paragraph of the article stated: ``The Government wants to dump top-up clauses in Treaty of Waitangi settlements which may give tribes that have already settled with the Crown millions more dollars." That statement can be read in a number of ways. If it is suggesting that the Government wants to delete the relativity clauses from the Waikato Tainui and the Ngai Tahu settlements, then I want to make it clear that is not the case. If, however, it is suggesting that the Government is unlikely to agree on a relativity clause in future negotiations, then that is correct.

Owen Jennings: Does the Minister agree with Professor Alan Ward, who has stated the cost of settling the claims is now likely to be at least \$2 billion?

Hon. D A M GRAHAM: No, I do not.

Georgina te Heuheu: Why did the Government agree on a relativity clause for Waikato Tainui?

Hon. D A M GRAHAM: The reason for that was that Waikato Tainui was the first major claim settled, and set a precedent and benchmark for other claims that would follow. They were therefore the most exposed

to the possibility of an increased expenditure limit at that particular time, and the discipline of the limit placing on others.

Hon. Jim Sutton: Does the Minister concede that if estimates that settlement of the Taranaki claims alone takes the running total above \$1 billion, with the eventual total reaching \$2 billion to \$3 billion, the \$170 million each provided for Ngai Tahu and Tainui will eventually be doubled or trebled?

Hon. D A M GRAHAM: No, I do not.

Sandra Lee: Given that the Government is now prepared to concede on public record that relativity clauses exist, will the Minister also concede that the fiscal envelope approach that was universally rejected by Maori also still exists, and is being applied in a way that disadvantages the smaller claimant groups, who are being left to come last?

Hon. D A M GRAHAM: The relativity clauses have never been a secret. I do not know where the honourable member gets that from. They have been available for perusal by anybody since they were first negotiated. That is the first thing to say. The little claims at the end will not miss out. [Interruption] No, they will get their fair share and we will make certain that they do.

Manu Alamein Kopu: E whakapono ana koe te Minita, ko tētahi o ngā take i whati te kaupapa o Te Whakatōhea, kāore te Kāwanatanga i whakaea kia whakaurua atu taua oati i whakaaetia i waenganui i te Karauna me Tainui, tōtira, me Ngāi Tahu?

[An interpretation in English was given to the House.]

[Does the Minister believe that one of the reasons the Whakatōhea deal was broken off was that the Government did not agree to the conclusion of a relativity clause that was agreed upon between the Crown and Tainui, and indeed with Ngai Tahu?]

Hon. D A M GRAHAM: No, I do not accept that at all. The existence of or the removal of the relativity clause, as I understand it, had nothing whatever to do with Whakatōhea turning it down.

### **3 Apr, Hansard Question Supplement Vol 32, p809 Written Question 2903**

Hon JIM SUTTON to the Minister in charge of Treaty of Waitangi Negotiations: What is the best current estimate on the total value of the settlement of all Treaty of Waitangi claims, and what estimation process was used to decide on this estimate?

ANSWER :

Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Sealords settlement, and other historical Treaty settlements to February 1998 have amounted to \$573.861 million. The Multi-Year Appropriation Vote: Treaty Negotiations: Non-Departmental Other Expenses, multi year appropriation, Historical Treaty of Waitangi Settlements, which is adjusted annually for movements in the consumer price index, has \$538.309 million appropriation remaining.

Under the Coalition Agreement, the National Party and New Zealand First agreed that the \$1 billion Settlement Envelope would cease, and that historical Treaty of Waitangi claims would be settled using settlements already reached as benchmarks, with each claim being considered on its merits.

To a large extent, the quantum of settlements depends on political judgement and negotiations with iwi. The objective of Treaty settlements is to provide redress that acknowledges and settles well-founded grievances and reconciles the Crown and iwi. Settlements take account of the nature and extent of Treaty breaches, with the focus on the overall relationship between the Crown and the iwi rather than on every specific instance of breach. By using settlements already reached as benchmarks, settlements also take into account what the current generation of taxpayers can and should afford to pay for grievances arising from historical Treaty breaches.

The full nature and extent of Treaty claims, and possible options for redress, are often not known until claimants put their case to the Waitangi Tribunal or to the Crown in direct negotiations. We are learning more as research reports are written, as the Waitangi Tribunal hears the claims in each district, and as the Crown and claimants negotiate settlements.

Given these factors, it is not possible to estimate the total cost of settling all historical Treaty of Waitangi claims.

**30 Apr, Hansard Question Supplement Vol 32, p1070**  
**Written Question 4045**

NANAIA MAHUTA to the Minister of Conservation: Which areas managed or owned by his department are or have been subject to Treaty of Waitangi claims?

ANSWER :

Hon NICK SMITH (Minister of Conservation) replied: Because of the very general nature of many of the claims lodged with the Waitangi Tribunal, I operate on the basis that all Crown-owned land administered for conservation purposes by my department, may be subject to Treaty claims.

**12 May, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 568, p8400**  
**Answers to Oral Questions – Maori Reserved Land – Consultants – Taranaki**

Maori Reserved Land---Consultants, Taranaki

9. OWEN JENNINGS (ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Did he request authority from Cabinet this year to pay consultants \$492,934 for negotiations costs related to the Taranaki land claim; if so, what evidence has he that taxpayers are getting value for their money?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): In February 1997 Cabinet approved the payment of \$492,934 to the Claims Progression Team that had been authorised by Ngati Tama Iwi Development Trust, Ngati Mutunga Iwi Authority, and Te Iwi o Ngatimaru (Taranaki) Incorporated to receive it on their behalf. I am satisfied that taxpayers are getting value for money.

Owen Jennings: Can the Minister explain why he paid treaty consultant Greg White---a watersider in Taranaki---through a private charitable trust, of which the only third party that can hold it to account is himself, the Attorney-General?

Hon. D A M GRAHAM: The money was paid to the tribe; to whom they

pay it is a matter for them. The beneficiaries of that tribe can hold those people to account.

Sandra Lee: What safeguards exist to ensure that resources and funding are provided on an equitable basis, so that groups purporting to hold a mandate are not favoured over the interests of other hapu and iwi in any particular claim area that have a right to advocate fairly?

Hon. D A M GRAHAM: Once an iwi is mandated, and once that mandate has been advertised, objections have been considered, and it has been approved by Cabinet, then that is the organisation that receives funding; otherwise it would be in a very inferior bargaining position with the Crown. We do not fund other internal disputes within iwi. That would be quite improper.

Hon. Winston Peters: Is the example put up by Mr Jennings the same type of establishment, in respect of trust and accountability, as the establishment of the Crown Forestry Rental Trust with its relationship to the Minister; and was not the Crown Forestry Rental Trust established under the last Labour Government when Mr Prebble was a member of it?

Hon. D A M GRAHAM: The Crown Forestry Rental Trust is an independent trust for which I am not responsible in any way. It uses income earned from forestry rentals to fund research and claimant costs. It has done so to the tune of about \$20 million over the last few years. That structure was put in place by the Labour Government prior to 1990. The trust does prefer those claimants who can establish that there are forestry blocks within their particular rohe or claim area. If people do not have any forestry block they do not qualify.

Mr SPEAKER: I call question No. 10.

Rt Hon. Helen Clark: I raise a point of order, Mr Speaker. This issue is of considerable interest to the Opposition, and the Hon. Jim Sutton was seeking the call. I wonder whether you could indulge him by letting him ask his question.

Mr SPEAKER: In this case I am perfectly willing to. It was Mr Mallard's energy and my inclination that swept us on to question No. 10.

Hon. Jim Sutton: In view of the disputes highlighted by the principal question, has the Office of Treaty Settlements evaluated the possibility of seeking hapu-based settlements in Taranaki rather than an iwi-based settlement; if not, why not?

Hon. D A M GRAHAM: It is physically quite impossible to deal hapu by hapu---

Hon. Richard Prebble: Why?

Hon. D A M GRAHAM: If the member would just hold on, I will tell him. We would end up with some 3,000 negotiations instead of the 600 we have under way now.

Owen Jennings: I seek leave of the House to table a letter from Mr Graham, as the Minister in charge of Treaty of Waitangi Negotiations, to Mr Greg White that shows that payments were made to the Claims Progression Team through a private charitable trust of Mr White's family.

Mr SPEAKER: Leave is sought to table. Is there any objection? There is objection.

Ngati Tama Iwi Development Trust

8. OWEN JENNINGS (ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Will he give an assurance that the Ngati Tama Iwi Development Trust can be held to account by the Ngati Tama Iwi for the more than \$500,000 of taxpayers' money the trust has received; if so, how will this be achieved?

Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): Yes, it can be achieved by an application to the court by a beneficiary of the trust under section 60 of the Charitable Trusts Act.

Owen Jennings: What processes can the iwi use to achieve accountability for the moneys already paid out to the White Family Charitable Trust?

Hon. D A M GRAHAM: I am quite happy to attempt to answer this question, but I wonder whether it is in compliance with the Standing Orders---

Mr SPEAKER: Was that a question on the same trust, or another one?

Hon. D A M GRAHAM: I think it is the same one. I am not certain whether it is in compliance with Standing Order 371(2), which states that questions shall not seek a legal opinion.

Mr SPEAKER: If it is purely seeking a legal opinion, then a Minister is not bound to give legal advice.

Hon. Jim Sutton: Is the granting of public money for such purposes conditional upon the availability of accounts for examination and audit so there can be public and parliamentary accountability for its expenditure; if not, why not?

Hon. D A M GRAHAM: Yes, it is. We do require duly audited accounts. Occasionally, we advance money to get the process under way, but no further moneys are advanced until the Crown is satisfied that the expenditure has been properly incurred.

Sandra Lee: Does the payment of half a million dollars made by the Minister commit him to ensuring every other claimant will have access to comparable claims funding; if not, why not?

Hon. D A M GRAHAM: When the Government is approached by claimants it has a process to determine funding for mandating, funding for prenegotiations and terms of negotiations, funding for the negotiations themselves, and funding for the implementation of a new settlement that is effected. The funds are made known to the claimant. They are paid in accordance with those milestones that are reached, and there have to be properly audited accounts to justify the payment.

Hon. Richard Prebble: I raise a point of order, Mr Speaker. The ACT party gave notice of this question, put it down, and now we have not been able to ask any supplementary question. The Minister, even though he is the Attorney-General, decided to rule out answering the supplementary question that was asked.

Mr SPEAKER: That is what the member asking the question sought to ask. Presumably he had reflected on a supplementary at the time he was preparing his question. That is for him to know. It is one of those not infrequent cases where somebody perhaps stumbles into an area that he or she may not be entirely aware of, but at times that is life. It would not be the first time that has happened around this House in recent months at all. However, since the member is the leader of the party, I am happy to make a dispensation.

Hon. Richard Prebble: Am I correct in interpreting the Minister's answer to mean the assurance that he gave publicly in the Dominion



this morning that the local iwi would be able to have accountability for the half a million dollars that had been paid out to this development trust actually means that if they want to know what has happened to it, they have to go to court?

Hon. D A M GRAHAM: The Crown advances money so that negotiations can progress to a settlement. Without it, there would not be any negotiations, because claimants have not got any money. It is important in the negotiations that claimants have competent and full advice from professionals so that their bargaining position is the same as the Crown's. We vet audited accounts to make certain that they are properly incurred. If the sum goes above the limit we have set for those milestones, then it comes off any settlement that is effected. If a beneficiary of an iwi believes that some of that money has been misappropriated, then there are steps that can be taken in the normal course of events for them to call the kaitiaki, in this case---or the trustees---to account. If they are dissatisfied with that, then they can apply to the court---as I have just advised---under section 60 of Charitable Trusts Act. If they still do not want to do that, then they can apply in a residual way to the Attorney-General, who has certain residual powers relating to charitable trusts. But that is a matter that the Solicitor-General, by convention, normally handles. In this case, the ACT party has asked me to look into those Attorney-General powers under section 58 of that Act. I have referred that to the Solicitor-General for him to consider, and that is the position.

**5 Jun, Hansard Question Supplement Vol 33, p1412**  
**Written Question 5564**

GEOFF BRAYBROOKE to the Minister of Health: Has he or his ministry received any information regarding the latest Maori claims on their retaining a public hospital in Napier on its current site; if so, what is that information?

ANSWER :

Hon BILL ENGLISH (Minister of Health) replied: I assume the honourable member is referring to claim WAI 692 in which the claimants allege they will be prejudicially affected by the decision to remove hospital services from the Napier Hospital hill site, and that this action is contrary to the principles of the Treaty of Waitangi.

This is a very recent claim and to date the only matters dealt with in respect of it have been the claimants' application to the Waitangi Tribunal for the claim to be dealt with on an urgent basis. That Tribunal's decision of 3 February 1998 declined the application at that stage but did not dismiss it, indicating that the applicants (whose claim was not in its final form) may consider their position and, if they wish, renew their application once they have put themselves in a better position.

Accordingly the information held by my officials, apart from that that is in the public domain, relates to the obtaining and receiving of legal advice by the Crown and Healthcare Hawkes Bay on this procedural matter, together with associated correspondence.

**17 Jun, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 569, p9494**  
**Answers to Oral Questions – Treaty Claims – Tainui Settlement**

Treaty Claims---Tainui Settlement

6. RODNEY HIDE (ACT NZ) to the Minister of Maori Affairs: Is he concerned over the National Business Review reports that the fruits of the \$170 million Tainui treaty settlement have been spent on ``fat pay packets, flash cars, jobs for the boys and questionable investments" and not on Maori welfare, health, employment and housing; if so, what is he doing about it?

Hon. TAU HENARE (Minister of Maori Affairs): Yes, I am concerned about the allegations made in last week's National Business Review. We need to work very carefully through those issues.

Rodney Hide: Does the Minister believe that individual Tainui members benefit in any way, shape, or form from the Tainui Maori Trust Board buying a V8 Land Rover Discovery with personalised plates NAIA 1, and a \$1 million-plus Wellington apartment for Labour list MP Nanaia Mahuta?

Rt Hon. Jonathan Hunt: I raise a point of order, Mr Speaker. I refer you to Standing Order 120, which states that a member may not make an imputation of improper motive against a member or---and this is the particular point I am making---an offensive reference to a member's private affairs. I suggest that the question being asked by Mr Hide directly refers to a member of this House and to something that occurs in her own private domain.

Rodney Hide: I point out that these claims were made in the National Business Review on Friday. They are of huge concern, and it is important that this money is spent for the benefit of Maori people. I would like the Minister of Maori Affairs to answer the question. If Labour Party members do not like it, that is their problem.

Rt Hon. Jonathan Hunt: Despite what Mr Hide might want to do, the actual question is, in terms of Standing Order 120, an offensive reference to a member's private affairs. It has nothing to do with any expenditure of any taxpayer money.

Hon. Wyatt Creech: I think we have a difficulty here. My understanding is that Mr Hide is quoting from an article in the public arena in which a claim has been made, and is asking a Minister to answer a question related to his portfolio that is directly related to something in the public arena. So the reflection is not being made by Mr Hide; he is merely basing his question on a claim that has been made in public.

Mr SPEAKER: For our guidance, Speaker's ruling 34/8 states: ``Quotations should be as free from unparliamentary language"---or other breaches of the Standing Orders---`` as a member's own speech." Because something quoted in the House was alleged in a report coming from outside, that does not in any way sanctify what would otherwise not be permitted. Therefore the member has transgressed. I was loathe to interrupt him in the sense that the only personalising reference was to quote a number plate.

Rt Hon. Jonathan Hunt: It was perfectly clear what was meant.

Mr SPEAKER: Well, how far can one go or not go? But as offence has been taken and, clearly, the linkage has now been made---whereas it may have escaped others, particularly amongst the noise---then the member cannot persist with it. The supplementary question therefore is not allowed.

Ron Mark: What is the Minister's view on how treaty settlements

should be spent?

Hon. TAU HENARE: Whether the money should be spent on flash cars or questionable investments is a call that only the elected representatives of whanau and hapu can make. But it does not abrogate the Government's responsibilities to ensure Maori receive adequate health, welfare, and education. Although I would expect compensation to be spent on the betterment of whanau and hapu, I certainly would not advise anybody, in terms of treaty settlements, to spend that money on any scheme that Owen Jennings runs, either.

Mr Dover Samuels: Can the Minister advise the House whether that member for ACT has asked him the same questions about Telecom and the \$1.5 million paid to its chief executive in salaries and bonuses, or has that member asked this question about the Tainui Maori Trust Board because it is a Maori organisation?

Hon. TAU HENARE: I am not sure what drives people to ask questions in this House, but I would say that when we question how trust boards and the like spend their money, we question everybody in society rather than just one group.

## **5 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 570, p11043**

### **Answers to Oral Questions – Treaty Claims – Fisheries Settlement**

#### Treaty Claims---Fisheries Settlement

1. SANDRA LEE (Deputy Leader---The Alliance) to the Minister of Maori Affairs: How will he and the Government ensure that all Maori benefit from the Treaty of Waitangi fisheries settlement?

Hon. TAU HENARE (Minister of Maori Affairs): As part of this coalition Government we will ensure that the model that comes before my colleague from Te Ohu Kai Moana to the Minister of Fisheries fulfils certain objectives, and that mechanisms are in place that will benefit all Maori.

Sandra Lee: Will the Minister concede that this Government has created by legislation an elite Maori squirearchy, who operate at the expense of the many Maori who are now meant to doff their caps to those who have cornered the fisheries settlement asset; if not, what will he do to ensure that the terms of the deed are enshrined specifically for the benefit of all Maori?

Hon. TAU HENARE: In answer to the first part of the question, no. And in answer to the second part of the question, the Minister of Fisheries on receiving the model has the residual powers under section 9 of the Maori Fisheries Act that he, after consultation with his colleagues, can ask the commission to say: ``No, you've got it wrong, you will have to come back and give us a better model."

Tutekawa Wyllie: Is the Minister aware of the level of agreement from iwi organisations on an optimum method of allocation?

Hon. TAU HENARE: I am aware that the chairman of the commission has recently stated that there is a proposal for allocation currently circulating that has the support of iwi organisations representing more than 70 percent of Maori. I understand that this proposal includes a development fund that will be available on a contestable basis for the benefit of all Maori.

Hon. Jim Sutton: Has the Minister held commissioners accountable for achieving the objectives of the legislation, or has he, once they have been appointed, simply washed his hands of the whole business?

Hon. TAU HENARE: The responsibility for reporting to this House by the commission lies with the Minister of Fisheries and not with the Minister of Maori Affairs.

Patricia Schnauer: Why did the Government agree to a treaty settlement formula that excludes 25 percent of Maori, as stated by Justice Paterson in his recent fisheries decision?

Hon. TAU HENARE: I cannot answer that question because I cannot find what Patricia Schnauer is referring to in the judgment of Justice Paterson.

**5 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 570, p11053**

**Answers to Oral Questions – Treaty Claims – Fisheries Settlement**

**Treaty Claims---Fisheries Settlement**

12. Mr DOVER SAMUELS (NZ Labour) to the Minister of Maori Affairs: Given his statement that the Waitangi Fisheries Commission has ``been on this legal merry-go-round for far too long'', what will he do to ensure that its resources will be made available for the benefit of all Maori?

Hon. TAU HENARE (Minister of Maori Affairs): I am not sure whether the member was here for question No. 1, but, as per my answer to that question, I said that as part of this coalition Government we are going to ensure that the model that comes before us from Te Ohu Kai Moana to the Minister of Fisheries fulfils certain objectives, and that mechanisms are in place that will benefit all Maori.

Mr Dover Samuels: Why, then, have Maori been waiting for over 6 years, forced into endless court litigation while waiting for the benefits spelt out in the Sealord's deal, when the commissioners have been paying themselves salaries and consultancy fees totalling millions of dollars, and why has he not considered the appointment of new commissioners?

Hon. TAU HENARE: I have considered the appointment of new commissioners. I do not see why Maoris have to do things for nothing. They should be paid for doing things, just like that member's mates in the Labour Party.

Sandra Lee: Will the Minister agree to a poll inviting Maori to decide whether they prefer to elect their Treaty of Waitangi fisheries commissioners or whether they prefer to retain the Government's appointed cronies?

Mr SPEAKER: I warn the member again about expressions and epithets.

Hon. TAU HENARE: The only way we are going to have a poll for the election of members on the Treaty of Waitangi Fisheries Commission is if the legislation is changed. I do not think there is any space on the legislative calendar for that.

**6 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 570, pp11143-11150, 11162-11164**

**Treaty of Waitangi Amendment Bill** (Second Reading)

See *Transcripts of Debates*, p298

*T Henare (Min of Maori Affairs)* introduces Bill which provides that the Chairperson of the Tribunal may be a High Court Judge, retired High Court Judge, or the Chief Judge of the Maori Land Court, thus allowing for the promotion of Eddie Durie to the High Court Bench while still allowing him to sit as Chairperson of the Tribunal.

*Tariana Turia* notes that while there is enormous respect for Judge Durie, other Maori of considerable experience that could chair the Tribunal should not be overlooked. Expresses

concern that the amendment may be casting the net too wide and may result in a person of non-Maori descent chairing the Tribunal, which would be a retrograde step, given the number of qualified Maori. Says there would be an expectation from Maori that the chairperson would be a person of Maori descent.

*Patricia Schnauer* refers to the need to separate politics from the judiciary. Says that having the Chairperson of the Tribunal on the High Court bench fails to maintain this separation. Says that Judge Durie will be seen by litigants as one who is not politically neutral because of his involvement with the Tribunal, and that the public will not be able to separate his two roles.

**6 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 570, p11155**

**Answers to Oral Questions – Ngai Tahu Claims Settlement Bill – Amendments**

Ngai Tahu Claims Settlement Bill---Amendments

6. Hon. KEN SHIRLEY (Deputy Leader---ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Has he expressed a view to Government members of the Maori Affairs Committee that changes should not be made to the Ngai Tahu Claims Settlement Bill; if so, how does he expect the House can adequately scrutinise this legislation and accommodate valid issues contained in over 300 submissions to the select committee?

Rt Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): I have not expressed any such view. I have advised the Maori Affairs Committee that amendments involving substantive changes to the deed negotiated between the Crown and Ngai Tahu would not be acceptable. However, it remains the task of the committee to scrutinise the Bill, hear submissions, report to the House on issues raised, and recommend to the House whether the legislation to give effect to the deed should be enacted.

Hon. Ken Shirley: Is the House then to assume from that, that in the view of this Minister the Crown negotiators and a few principals of Ngai Tahu should be given the power to usurp the power of this House to adequately scrutinise legislation?

Rt Hon. D A M GRAHAM: No, I do not.

Georgina te Heuheu: Did the Minister advise the select committee when attending the select committee hearing at its request and in answer to questions put to him by committee members?

Rt Hon. D A M GRAHAM: The committee asked whether I would attend before the committee and I did so, happily. It asked whether the Crown was prepared to make amendments to the settlement that had been effected and I advised the committee that the Crown was not prepared to do that.

Jim Anderton: Can the Minister explain the difference between a select committee making alterations to a Bill before it, and the House making changes to a Bill before it in the Committee stage, and, if there is not any difference, why is the select committee prohibited from doing it, or advised not to; will the House receive the same advice, or is the whole thing a complete waste of time?

Rt Hon. D A M GRAHAM: I do not think it is a complete waste of time at all. The Crown and Ngai Tahu negotiated for 6 1/2 years, made compromises on each side, and reached an agreement. That agreement requires, in part, legislation to perfect it. That legislation is tendered by the Government to the House for its consideration. It is not for the select committee, nor for the House, to try to renegotiate the deal. It is for the House to decide whether it

supports the legislation.

Hon. Jim Sutton: As the Minister is implicitly inviting members to choose between the veracity of himself and the member for Te Puku o te Whenua, can he add any further information that might assist us in our choice?

Rt Hon. D A M GRAHAM: I could spend some time in answer to that question but I think it would be better if I just replied ``No".

**12 Aug, Hansard Question Supplement Vol 34, p2152**  
**Written Question 8591**

**12 Aug, Hansard Question Supplement Vol 34, p2170**  
**Written Question 8745**

RODNEY HIDE to the Minister for Courts: As outlined in the Coalition Agreement, what action has been taken towards adequately resourcing the Waitangi Tribunal?

ANSWER :

Rt Hon JENNY SHIPLEY (Prime Minister) replied: See reply to question No. 8591.

**12 Aug, Hansard Question Supplement Vol 34, p2171**  
**Written Question 8747**

RODNEY HIDE to the Minister in charge of Treaty of Waitangi Negotiations: As outlined in the Coalition Agreement, what action has been taken towards discontinuing the fiscal envelope on the basis that there is respect for the settlements already effected which would not be reopened, the Coalition parties confirmation that the Crown will endeavour to settle claims on their merits using the settlements already effected as benchmarks, and being fiscally responsible?

ANSWER :

Rt Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Government is committed to upholding the Treaty of Waitangi, and meeting its obligations to provide redress that acknowledges and settles well-founded grievances and reconciles the Crown and iwi.

Under the Coalition Agreement, the National Party and New Zealand First agreed that the \$1 billion Settlement Envelope would cease, and that historical Treaty of Waitangi claims would be settled on their merits, using settlements already reached as benchmarks. Settlements would be fiscally responsible, and settlements already reached would not be re-opened.

The Government's approach to direct negotiations with claimants and Waitangi Tribunal hearings has been on this basis.

Claimant groups in direct negotiations, or preparing for negotiations, are aware of the Crown's policies concerning the quantum of settlements. Their pursuit of negotiations is a vote of confidence in the Crown's ability to reach settlements.

Each settlement is considered on its merits, taking account of the

nature and extent of Crown's Treaty breaches, and the extent of the prejudice that the claimant group suffered as a result of those breaches. The settlements focus on the overall relationship between the Crown and the iwi rather than on every instance of breach.

The quantum of each settlement depends ultimately on political judgement and negotiations with iwi. Settlements take account of what this generation of taxpayers can, and should, afford to pay for grievances arising from historical Treaty breaches. Claimant groups recognise that the economic value of their losses from proven historical Treaty breaches far exceeds what the Crown could afford to pay, and this is reflected in the quantum of the settlements reached to date.

For fairness between claimants and the integrity of the Treaty settlements process as a whole, the Government needs to ensure that settlements are fair, one settlement to another. To do this, the Government uses settlements already reached as benchmarks.

The Crown outlined its approach to Treaty settlements at the Waitangi Tribunal's remedies hearings in Turangi in 1997. The Crown highlighted, and the Tribunal acknowledged, the Crown's fiscal constraints and the need to ensure that settlements are fair, one to another.

Aside from the approach the Crown has taken in negotiations and at Tribunal hearings, there has been no need for the Crown to take any specific action to implement this part of the Coalition Agreement.

**26 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 571, p11644**  
**Answers to Oral Questions – Ngai Tahu Claims Settlement Bill**

Ngai Tahu Claims Settlement Bill

1. Hon. KEN SHIRLEY (Deputy Leader---ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Why has he stated, as reported, that Parliament cannot make changes, other than on technical issues, to the Ngai Tahu Claims Settlement Bill?

Rt Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The Bill provides the legislative mechanism to perfect parts of a settlement recorded in a deed. It is for Parliament to give effect, or to decide not to give effect, to the deed. However, in the case of a Bill to give effect to an agreement between the Crown and another party, Parliament should not insert conditions in the implementing legislation that are not acceptable to the two parties, except in exceptional circumstances. This is consistent with advice given by the Clerk of the House to the select committee. Neither Ngai Tahu nor the Crown wish the legislation to be amended other than to better reflect the deed of settlement.

Hon. Ken Shirley: Why, in respect of the Lake Moeraki lodge in South Westland, did the deed clearly state that it would be a scenic reserve, yet without consulting the other party---Dr Gerry McSweeney, the operator of that business---the Bill has changed the status to a historic reserve, which is contrary to the deed and is to the detriment of that business?

Rt Hon. D A M GRAHAM:  
Because Ngai Tahu and the Crown agreed to that amendment.

Hon. Jim Sutton: Would it not have shown better faith to have made it clear that no amendments would be considered, before many members of the public went to a lot of trouble to make submissions to the

select committee calling for amendments?

Rt Hon. D A M GRAHAM: I did make that abundantly clear to the Government members on the select committee.

Rt Hon. Winston Peters: Can the Minister confirm that the deed arises from a court action, which arose from legislation passed between 1984 and 1990 under the Labour Government, at which time Mr Prebble and Mr Shirley were Cabinet Ministers alongside those people over there in the Labour Party?

Rt Hon. D A M GRAHAM: I can certainly confirm that between 1984 and 1990 a lot of legislation was passed by the Labour Government. I am not certain of the relationship in this instance.

Jim Anderton: Will the Minister allow a clause to be inserted in the Ngai Tahu Claims Settlement Bill providing that the Bill is subject to the Treaty of Waitangi; if not, why not?

Rt Hon. D A M GRAHAM: No. I do not think it is necessary to put that in the Bill at all. The Bill is not subject to the Treaty of Waitangi like that. The treaty applies to all Government action, and this is just a Bill to carry out a deed of settlement.

**27 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 571, pp11748-11751**

**Ngai Tahu Claims Settlement Bill** (In Committee)

*S Lee* refers to the fact that Bill extinguishes list of specified claims to Tribunal (some of which had been reported on), and that many of these claimants would not benefit from the settlement.

**27 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 571, p11755**

**Answers to Oral Questions – Ngai Tahu Claims Settlement Bill**

Ngai Tahu Claims Settlement Bill

4. SANDRA LEE (Deputy Leader---The Alliance) to the Attorney-General: Why did he not make a report to the House under section 7 of the New Zealand Bill of Rights Act 1990, on the introduction of the Ngai Tahu Claims Settlement Bill, that clauses 447 and 448 of the Bill appear to be inconsistent with rights affirmed by the Bill of Rights Act?

Rt Hon. D A M GRAHAM (Attorney-General): I did not consider that the provisions of the Ngai Tahu Claims Settlement Bill appeared inconsistent with the rights and freedoms of the New Zealand Bill of Rights Act and furthermore I specifically considered clauses 447 and 448. These clauses reflect an agreed settlement between the parties as to how any future claims are to be dealt with---that is, by a reciprocal arrangement. That conclusion was reached after considering very lengthy advice from Crown counsel.

Sandra Lee: Given that all future rights of redress in the Waitangi Tribunal, the Maori Land Court, and other courts will be extinguished when this Bill is passed, even for claims already lodged by people who have not consented to the settlement, why did he not advise Parliament of the words of the New Zealand Law Society that the Ngai Tahu Claims Settlement Bill in its current form breaches the New Zealand Bill of Rights Act?

Rt Hon. D A M GRAHAM: Because I do not accept that it does, and until I do I am not obliged to report to the House.



**22 Sept, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 572, p12195**

**Answers to Oral Questions – Ngai Tahu Claims Settlement Bill – Interest Charges**

Ngai Tahu Claims Settlement Bill---Interest Charges

4. RON MARK (NZ First) to the Minister in charge of Treaty of Waitangi Negotiations: Since the settlement of the Ngai Tahu claim in 1997, what has been the total liability by way of interest charges to the Crown, and when do the interest payments cease?

Rt Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): Under the heads of agreement signed by the Crown and Ngai Tahu on 5 October 1996, the Crown agreed to pay Ngai Tahu interest on \$160 million, being the settlement quantum less \$10 million paid on account in June 1996, from 6 October 1996 to the settlement date inclusive. The interest rate is 7.91 percent, being the 5-year Government stock rate on 3 October 1996. The amount on which interest is payable reduced to \$150 million from 21 November 1997, with a further \$10 million being paid on account on the signing of the deed of settlement. If the legislation came into force on 1 October 1998, the settlement date would be 22 October 1998 and the interest payable on that date would be \$25,175,471.

Ron Mark: Given the Minister's reply, why has the Government not taken urgency to resolve this matter sooner, as it has done in the past for a raft of much less important pieces of legislation, thereby saving taxpayers a considerable amount of money over the past few weeks and the next few days?

Rt Hon. D A M GRAHAM: It is not the wish of the Government to rush this legislation. It is important legislation. It was at the select committee for 5 months. It has had an extended period in the Committee of the whole House. I just hope that members are responsible when it comes to the voting patterns.

Mr Dover Samuels: What method was used to calculate the interest charges, and are those predicted interest charges to the Crown comparable to the approximated actual interest costs; if not, which is higher?

Rt Hon. D A M GRAHAM: A rate is fixed by the deed, and that is the amount that the Crown is going to pay. It is not possible, therefore, to compare it with something else, whatever it is.

Sandra Lee: Has the Minister or the Government entered into any other binding contracts, or guaranteed or underwritten any other loans, for Te Runanga o Ngai Tahu in anticipation of the Ngai Tahu Claims Settlement Bill becoming law; if so, what are they?

Rt Hon. D A M GRAHAM: No, we have done no such thing.

Hon. Richard Prebble: Given the fact that the Minister did not have parliamentary approval for a settlement, does he now concede that he was wrong to enter into an agreement to pay interest until Parliament had agreed to his proposal?

Rt Hon. D A M GRAHAM: I do not agree with that at all. It is entirely proper that once an agreement is reached as to the quantum, Ngai Tahu does not suffer a loss thereafter while the Crown perfects that agreement.

**23 Sept, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 572, p12242**

**Answers to Oral Questions – Ngai Tahu Claims Settlement Bill – Interest**

Ngai Tahu Claims Settlement Bill---Interest

3. Hon. KEN SHIRLEY (Deputy Leader---ACT NZ) to the Minister in

charge of Treaty of Waitangi Negotiations: Why did he agree, prior to the ratification of the Ngai Tahu Deed of Settlement, to pay interest on the settlement, now amounting to some \$25 million, in addition to an up-front payment of \$10 million, which is non-refundable if Parliament does not pass the Ngai Tahu Claims Settlement Bill?

Rt Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The payment of interest on the settlement amount outstanding and the rate of that interest were fundamental terms of the heads of agreement concluded between the Crown and Ngai Tahu on 5 October 1996. The agreement to pay interest recognised the cost to the settlement recipients of deferral in payment of the substantive amount agreed upon. Agreements to pay interest in this way have also been a feature of other settlements, for example, Waikato Tainui. The \$10 million paid to Ngai Tahu on signing the deed of settlement last November was part-payment of the original settlement amount of \$170 million. There had been one other "on account" payment of \$10 million. Last November's payment thus reduced the final instalment to \$150 million plus the interest accumulated. The amount on which interest was payable was correspondingly reduced from the date of that payment. The final instalment, namely the \$150 million and the accumulated interest, will not be payable if Parliament does not pass the legislation. The \$20 million that has been paid to date would be retained by Ngai Tahu but would be set off against any future settlement. All of these matters have been available to the public since October 1996.

Hon. Ken Shirley: As the agreed settlement date is subsequent to the ratification by this House of Representatives, why did the Minister permit Crown negotiators to dispense taxpayers' money in this way to the Ngai Tahu runanga, which was only created in 1996?

Rt Hon. D A M GRAHAM: The settlement date occurs after the passing of the legislation, for obvious reasons. If Parliament does not approve it, then the settlement does not become unconditional. The advances "on account" were made because the Crown accepts that Ngai Tahu will certainly get \$20 million at some stage in the settlement.

Hon. Jim Sutton: Can the Minister indicate that it would be true that in general terms the interest paid by the Crown in this matter will be offset by the savings to the Crown by delaying the final payment of \$150 million?

Rt Hon. D A M GRAHAM: Yes, I can. Obviously, if we do not pay the \$170 million, or in this case the residue of \$150 million, for 2 years after the deed of settlement, we have had the use of that money in the meantime. That has certainly saved interest charges.

Sandra Lee: Why did the Minister not refer the provision of penalty interest to Parliament for ratification in advance of making that commitment in order to ensure that the sovereignty of Parliament to decide the merits or otherwise of this Bill in its own time, free from pressure, would not be undermined?

Rt Hon. D A M GRAHAM: If the deed of settlement makes the approval of Parliament a condition of the payment, then I would have thought that parliamentary sovereignty has been preserved.

Rt Hon. Winston Peters: Does the Minister now admit that a penalty provision exists in respect of the inclusion of the Lake Coleridge power-station, which, because he could not deliver by 31 August, has already occasioned to the taxpayer costs of half a million dollars; and is it further the case that if he does not complete the deal by early November, tens of thousands of dollars of loss will be occasioned to the Crown by reason of the buyers being able to opt

out, they having bid far higher than any other bidder for their Lake Coleridge power-station?

Rt Hon. D A M GRAHAM: The interest payable to Ngai Tahu is one thing, and that is just to ensure that the \$170 million settlement is preserved for Ngai Tahu. The fact that the Crown had to introduce legislation and seek parliamentary approval should not deprive them of the benefit of their settlement. In so far as the matters that were raised by the Rt Hon. Winston Peters are concerned, yes, it is true that the delay in getting the Bill reported back from the select committee and the 23 hours or so that we have spent so far in the Committee of the whole House have meant that the Crown has lost part of the consideration for one of the dams. It is equally true, but quite coincidental, that if the Bill is not passed by a certain time---I have forgotten the exact date---then there is a risk of that sale collapsing.

**23 Sept, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 572, p12246**  
**Answers to Oral Questions – Ngai Tahu Claims Settlement Bill – Costs**

Ngai Tahu Claims Settlement Bill---Costs

6. RON MARK (NZ First) to the Minister in charge of Treaty of Waitangi Negotiations: What further additional costs, if any, arising from the delay in the passage of the Ngai Tahu Claims Settlement Bill, are to be borne by the taxpayer, apart from the \$1 million per month now accumulating as interest charges?

Rt Hon. D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): The payment of the agreed interest to Ngai Tahu on the settlement amount outstanding is the only aspect of the settlement whose cost increases with the time taken to complete the Crown's undertakings to legislate. The only other additional costs might be legal costs, or possibly the costs of parliamentary time, and I am also aware of the matters raised by the Rt Hon. Mr Peters relating to the dams. I do not know of any other.

Ron Mark: What was the bid for Lake Coleridge, by how much did it exceed the second-highest bid, and could the Minister confirm whether it is in excess of \$30 million?

Rt Hon. D A M GRAHAM: In all honesty, I do not have the faintest idea.

Hon. Jim Sutton: Can the Minister also confirm that he does not have the faintest idea whether the Government would have accepted the lower bid anyway?

Rt Hon. D A M GRAHAM: Yes, I am quite happy to confirm that I do not have the faintest idea about that either.

Sandra Lee: Does the Minister agree with the New Zealand First Party that this Bill of 466 clauses and 115 schedules, with its deed of settlement of 1,500 pages, should have been rammed through this House under urgency, thus denying the House and the public time to make submissions and to expose the inadequacies of this legislation?

Rt Hon. D A M GRAHAM: That is a matter that the honourable member should raise with New Zealand First.

Rt Hon. Winston Peters: I want to refer to the supplementary question that the honourable member Ron Mark raised, because I want the Minister to confirm that there is a potential loss to the Crown of about \$30 million because the successful Coleridge bid was in excess of \$90 million and the second bid was about \$30 million less, therefore it is highly likely that if the Bill is delayed, the

original bidders would want to be out of the---

Mr SPEAKER: I am sorry to interrupt the honourable member; I thought he had another supplementary question. That was the only purpose for which I called him. What he is putting up now sounds like an excellent contribution to the next item of business after questions.

Rt Hon. Winston Peters: In respect of the Minister's answer that he had not the faintest idea in regard to the first and second bid, will the Minister admit, if that is the case, the possibility that because the highest bid was in excess of \$90 million and the second one was \$30 million less, the highest bidders may well, if given a chance to back out, want to back out and renegotiate the purchase price, and would he confirm that that is a potential loss to the Crown if the legislation is delayed?

Rt Hon. D A M GRAHAM: I am aware that there is a possibility of the sale of that dam collapsing. Certain rights are given to the purchaser to terminate if this legislation is not passed by a given date. I cannot recall offhand what that date is, and I certainly do not personally know how much the bid was or what the other bids were.

Sandra Lee: I raise a point of order, Mr Speaker. Yesterday in this House I asked the Minister a question as to whether the Crown had entered into any other contracts or whether it had it underwritten or given a guarantee---

Rt Hon. D A M GRAHAM: Nothing to do with Ngai Tahu.

Sandra Lee: Yes, it was. The Minister stated emphatically that the Crown had not done so, yet in answering the supplementary question of the Rt Hon. Winston Peters today he has made it clear that that is exactly what the Crown has done.

Mr SPEAKER: This is not the forum for carrying this matter on. It is a debatable matter. If Sandra Lee was making an allegation that the Minister has misled the House, then that is not a matter to take up question time. There are other processes available.

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. I seek the leave of the House to make a personal explanation about ECNZ, Coleridge, and the Ngai Tahu Claims Settlement Bill.

Mr SPEAKER: Personal statements must relate to a member personally in relation to their personal reputation, personal affairs, things that have been misrepresented, and so on. They are not for conducting debate or justifying, as it were, action taken by a Minister, which is a debatable matter because it was on behalf of the Government. Does the member have what I might say are some purely personal matters he wishes to raise?

Gerry Brownlee: We need more information.

Mr SPEAKER: The member mentioned some topics. I asked him whether they were purely personal. He said they were. On that, I think that members can make a decision. Is there any objection? There is not.

Rt Hon. Winston Peters: I want to make it very clear, given the Minister's answer of his not being aware of it, that there were Ministers who were aware of it. The Rt Hon. Bill Birch is one and I am the other one. My knowledge of the matter is of a successful bid arising from a contract, 1 July 1995, between---

Mr SPEAKER: I am sorry to tell the member that what he has said so far has nothing to do with personal explanations, as provided by the Standing Orders. Of that I am absolutely clear.

**29 Sept, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Supplementary Order Paper 273**  
**Treaty of Waitangi (Final Settlement of Claims) Bill** (Introduction and First Reading)

**8 Oct, Hansard Question Supplement Vol 35, p2801**  
**Written Question 11035**

Hon JIM SUTTON to the Minister for Courts: Is the Waitangi Tribunal adequately resourced to fulfil its business strategy?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: Yes, the Waitangi Tribunal is adequately resourced to fulfil its business strategy.

**8 Oct, Hansard Question Supplement Vol 35, p2801**  
**Written Question 11036**

Hon JIM SUTTON to the Minister in charge of Treaty of Waitangi Negotiations: Who does the Government intend shall commission, assess and fund research and preparation required for Treaty of Waitangi claims in direct negotiation with the Crown?

ANSWER :

Rt Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: Claims that have advanced to direct negotiations between claimants and the Crown do not generally require the further commissioning of research. Among other things, the Crown must be assured, in accepting a claim for direct negotiation, that the claims research already undertaken sufficiently establishes a historical Treaty breach, or breaches, based on Crown acts or omissions.

Claimants are able to seek research funding from the Waitangi Tribunal and, where their claims relate to Crown-owned forestry lands, from the Crown Forestry Rental Trust (CFRT). Both the Waitangi Tribunal and the CFRT help to develop the research commissions, and also monitor and assess the research they fund.

The Crown, either by way of the Waitangi Tribunal hearing process or through direct liaison with claimants (where those claimants have bypassed the hearing process), also assesses the claims research alongside its own research and evidence, before establishing a formal position in relation to the breaches asserted. This is co-ordinated by the Office of Treaty Settlements, in close consultation with the Crown Law Office, on behalf of the Crown.

**8 Oct, Hansard Question Supplement Vol 35, p2801**  
**Written Question 11038**

Hon JIM SUTTON to the Minister in charge of Treaty of Waitangi Negotiations: What plans, if any, do the Government have for the education of the public about Treaty of Waitangi claims and settlements?

ANSWER :

Rt Hon D A M GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Office of Treaty Settlements will be developing a comprehensive guideline to the Treaty settlements process for claimant, and public, awareness raising. The guideline will draw on the practical experience gained by the Crown in negotiating and achieving recent settlements within the Government's broad Treaty settlement policy framework.

The Ngai Tahu Deed of Settlement, signed in November 1997, has been made widely available to the general public through, for example, public libraries and placement on the Internet. I also understand that Waitangi Tribunal claim reports can also be accessed from the Internet.

There have also been a number of scholarly pieces written on the settlements process which have enjoyed widespread public readership, most notably the 1997 publication ``Trick or Treaty".

**4 Nov, Hansard Question Supplement Vol 35, p2947**  
**Written Question 11537**

Mr DOVER SAMUELS to the Minister of Maori Affairs: What recommendations and advice did he receive specifically regarding the urgent Waitangi Tribunal claim regarding funding of Wānanga?

ANSWER :

Hon TAU HENARE (Minister of Maori Affairs) replied: I have received a range of advice from my officials about the Waitangi Tribunal claim regarding funding of wānanga. It is important to note that the claim takes place after a lengthy period of discussion between officials and representatives of the wānanga on the equitable resourcing of the three wānanga compared to other tertiary institutions.

In August this year, I was advised that the Waitangi Tribunal had granted urgency to the claim by Te Wānanga o Raukawa, Te Wānanga o Aotearoa and Te Whare Wānanga o Awanuiarangi, that the Crown had breached the Treaty by failing to resource the three wānanga on an equitable basis compared to other Tertiary education institutions.

I was also advised that the Ministry of Education had commissioned a report by Price Waterhouse Coopers that showed that the wānanga were undercapitalised and that the level of undercapitalisation varies significantly between each wānanga. As a result, I invited the Minister of Education to extend the report by Price Waterhouse Coopers to examine and specify the exact level of undercapitalisation for each wānanga. I understand this work is proceeding.

After the first week of the Tribunal's hearing, and the resultant clarification of the position of parties involved in the claim, my officials suggested ministers should consider direct negotiations as an option to resolving matters. Along with my colleagues, I considered this recommendation, and a decision was made to await the outcome of the present hearing.

I am unable to comment any further on this issue as it remains subject to the jurisdiction of the Waitangi Tribunal. However, I refer the member to the Attorney General for a copy of the Crown's opening submission, tabled at the recent Waitangi Tribunal hearing.

**4 Nov, Hansard Question Supplement Vol 35, p2948**  
**Written Question 11539**

Mr DOVER SAMUELS to the Minister of Maori Affairs: What advice did he receive on the impact of the binding recommendations made by the Waitangi Tribunal on the Ngati Turangitukua claims?

ANSWER :

Hon TAU HENARE (Minister of Maori Affairs) replied: I have been extensively briefed on the binding powers of the Waitangi Tribunal, and this has included advice that the exercise of binding powers could upset relativities between claims. In relation to the Waitangi Tribunal's use of binding powers in the Turangi Township Remedies Report, I was advised that the Waitangi Tribunal had applied a cautious and thorough approach, and, after considering both Crown and claimant submissions, binding recommendations were made only for particular sites identified by Ngati Turangitukua as necessary for a fair remedies package. The Tribunal made no binding recommendations to return private residential property.

**11 Nov, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 573, p13058**  
**Answers to Oral Questions – Treaty Settlements – Year 2000**

Treaty Settlements---Year 2000

9. Hon. DEREK QUIGLEY (ACT NZ) to the Prime Minister: Does she stand by her statement to the Auckland National Party on 9 December 1997 that the Government is ``working to resolve the outstanding Maori grievances by the year 2000''; if so, does she expect these settlements to be full and final?

Rt Hon. JENNY SHIPLEY (Prime Minister): The process for the resolution of treaty claims has posed challenges for both claimants and the Crown, but the Government is resolved and willing to settle by the date the member mentions. All settlements, as the member knows, are full and final.

Hon. Derek Quigley: Is her minority Government's decision not to allow the Treaty of Waitangi (Final Settlement of Claims) Bill to go to a select committee because it is not interested in listening to the views of the public, or because it is so clever that it can make up its mind on an issue like this even before hearing both sides of the debate?

Rt Hon. Jonathan Hunt: I raise a point of order, Mr Speaker. I ask you to examine that supplementary question. I understand that it anticipates members' order of the day No. 2. If that is the case, surely it cannot be asked in that way.

Mr DEPUTY SPEAKER: I invite the Prime Minister to ignore the part of the question that refers to what might or might not happen later in the day.

Rt Hon. JENNY SHIPLEY: The National Party and the National minority Government have an outstanding record in seeking to settle treaty claims. We continue to be committed to doing that in the way in which the previous National Government and the coalition Government had sought to do. The member who asks the question is well aware of that. Indeed, far from being unwilling to listen, the National Party has a long record of not only listening but acting in this area. It is a record that far exceeds the recent convenient

political interest in this issue by the ACT party.

Sandra Lee: Taking the legal, political, and inter-iwi fiasco that is a full and final Sealord's fishery settlement as an example---

Rt Hon. Winston Peters: The member voted for it.

Sandra Lee: ---I did not---did the Prime Minister seriously expect that Maori or Pakeha---

Rt Hon. Winston Peters: Jim Anderton voted for it.

Rt Hon. Helen Clark: I raise a point of order, Mr Speaker. The deputy leader of the Alliance is trying to ask a question and is being constantly heckled from two seats along from her. It is very difficult to hear the question.

Mr DEPUTY SPEAKER: As I did not observe it, I will just say to all members, particularly those in close proximity, that they will not interject on each other. If it comes to my attention that they are doing so they will be invited to leave the Chamber.

Sandra Lee: Taking the legal, political, and inter-iwi fiasco that is a full and final Sealord's fisheries settlement as but one example, does the Prime Minister seriously expect that Maori or Pakeha New Zealanders can have any confidence in this Government's flawed treaty settlement policy?

Rt Hon. JENNY SHIPLEY: They most certainly can. The issues to do with Sealord's have as much to do with Maori politics as they have to do with the commitment of this Government to settle treaty claims. Maori are continuing to work to try to find a way to resolve the way in which they allocate the fishing resource. This Parliament would be wise to continue to support them as they do that.

Rt Hon. Winston Peters: Is the Prime Minister aware that the Sealord's deal was supported in this House by Mr Anderton and that the Waitangi legislation being complained about, by inference in the primary question, was all passed when Mr Shirley and Mr Prebble were members of the Labour Party and were responsible for it; and has she any reports about that sort of hypocrisy?

Rt Hon. JENNY SHIPLEY: My view is that the majority of members in this Parliament are keen to see treaty issues settled between the Crown and Maori. This National minority Government intends to continue to put its energy into doing just that.

Hon. Jim Sutton: Does the Prime Minister agree with the Minister in charge of Treaty of Waitangi Negotiations, who commented just last month that the deadlines proposed by Derek Quigley's member's Bill are ``just most unlikely and ludicrous because one cannot force people to negotiate like that"; and does she then agree that Mr Quigley is grandstanding now, just as she herself was in 1997?

Rt Hon. JENNY SHIPLEY: The Government is committed to continue to seek to resolve the major treaty claims by the year 2000; and the Crown stands still as a willing treaty partner ready to open and conclude those negotiations. A very large number of claims are still before the Waitangi Tribunal. However, as the member is well aware, often when a treaty claim is heard it tends to sweep up a large number of claims as that claim is settled. While the number seems large at this stage, it should still be the intention of this Parliament to bring the treaty claim process to a conclusion.

Mr DEPUTY SPEAKER: Before I call Mr Brownlee, I just say to members that fatuous comments added to serious questions do not aid the responses.

Gerry Brownlee: How many claims are yet to be resolved?

Rt Hon. JENNY SHIPLEY: Although over 700 claims have been lodged with the Waitangi Tribunal, many of these are overlapping claims and



are grouped together for resolution. The notable historic claims, with the exception of about half a dozen, are in the process of being researched. Some of them are now getting close to resolution.

**11 Nov, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 573, pp13082-13094**  
**Treaty of Waitangi (Final Settlement of Claims) Bill** (Second Reading)

See *Transcripts of Debates*, p309

**D Quigley** outlines Private Member's Bill. Bill nominates end of the century as the cut-off date for lodging claims with the Tribunal. Tribunal would then have a further 5 years to research claims. Crown and claimants would then have a further 5 years to settle. Says adequate funding is a matter of priority. All settlements would be full and final with no opportunity to reopen settlements.

Most other speakers opposed to imposing of time limit.

**Jim Sutton** says Bill sets unrealistic time frame and is in breach of Bill of Rights.

**Nick Smith (Min of Conservation)** says Government is not opposed to the timetable. Says Tribunal does hope to hear all claims by 2005, but that this time limit cannot be imposed.

**Nick Smith** says National believes that having a timeline is quite appropriate, but that imposing it in law is wrong.

**Sandra Lee** stresses the point that the Treaty is an ongoing pact, and eventually abolishing the Tribunal presupposes that there would be no further breaches.

**D Awatere-Huata** in support of Bill, says it is really about resourcing the Tribunal and the entire Treaty process to the point that the deadlines set can be met.

*Bill discharged.*

**8 Dec, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 574, pp13989-13999**

**Treaty of Waitangi Amendment Bill** (Report of Government Administration Committee on Bill)

See *Transcripts of Debates*, p324

**D Graham (Min of Treaty Negotiations, on behalf of Min of Maori Affairs)** notes that the majority of the committee was of the opinion that the Bill should progress without amendment. Minority view was that there is a political consideration in the matters concerning the Tribunal, and that it was not appropriate that a member of the bench be contemporaneously a member of the Tribunal.

**Phil Goff** refers to the submission of the New Zealand Law Society, which considers that although there is a minor constitutional concern in having the chairperson of the Tribunal also on the Bench, this concern was outweighed because Justice Durie was such a compelling candidate for the Bench.

**Jim Sutton** speaks on the role of the Chairperson of the Tribunal –

The Waitangi Tribunal operates on that fuzzy boundary, or overlap, between politics and the law. There is no doubt about that. To be a good Chairperson of the Waitangi Tribunal would require considerable

skills, not only in the law but also in politics. Frankly, the solutions arrived at through the tribunal process have to stand up legally and they have to stand up politically. If they cannot stand up in both those ways, they will not endure. So it is important that someone of the highest calibre is in that position. We are fortunate at the moment to have Justice Durie, who enjoys the confidence of all and sundry in his position as Chairperson of the Waitangi Tribunal. He certainly deserves the promotion to a judge of the High Court.

Far from this being a situation that is relevant only to Chief Judge Durie, I think it is a good move to legislate in a general way, because Chief Judge Durie is not immortal. He might want to go sheep farming or do something different, and then we would need a new Chairperson of the Waitangi Tribunal. If we have to choose the most suitable person from a field that contains not just the Chief Judge of the Maori Land Court but also the judges of the High Court, then I say we have a better chance of getting another very high calibre person who is suitable. People with that range of skills do not grow on trees; even ACT will probably agree with that. These will not be easy boots to fill when the time comes. I think we will need to have the playing field tilted in our favour, and I think we do that a little by broadening the choice of individuals for that position.

***G Te Heuheu (Associate Min of Treaty Negotiations, Min for Courts)*** states –

The first principle is the recognition, I think, that the expertise required to oversee the work of the Waitangi Tribunal is also expertise that should be located on the bench of the High Court. Fortunately we have a person with that expertise at the moment, but the principle is that that knowledge is as important to the work of the Waitangi Tribunal as it is to the High Court.

The other thing that might be seen as an underlying principle is the fact that this legislation gives credence to the importance of the Waitangi Tribunal process, and that is absolutely the way it should be. The whole responsibility of that work has been critical to the development of treaty jurisprudence in the last 10 to 15 years, and so much of it started from the tribunal. It is high time that work was recognised in a way that says it is important. We now recognise that importance by saying that the Chairperson of the Waitangi Tribunal must have these other attributes as well.

***Dover Samuels*** notes that the rules of the Court would prohibit any kind of conflict of interest in terms of High Court proceedings and Tribunal proceedings.

***Patricia Schnauer*** repeats criticism of the Bill on the grounds that it derogates from constitutional principle.

**8 Dec, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 574, pp14003-14008**  
**Treaty of Waitangi Amendment Bill** (In Committee)

See *Transcripts of Debates*, p335

***Patricia Schnauer*** moves an amendment that would remove the reference to a High Court Judge from the Bill, meaning that only a retired High Court Judge or the Chief Judge of the Maori Land Court could be the chairperson of the Tribunal. Again cites constitutional concerns.

**D Graham** speaking to the amendment and the constitutional concerns, notes that court judgments/commission of inquiry recommendations often have political ramifications, but that does not mean that a judicial officer should not preside. Refers to Cave Creek and Erebus inquiries which were presided over by members of the judiciary. Says one point of validity concerns the situation where the High Court might be called upon to conduct a judicial review of the proceedings of the Tribunal and the actions of the Chairperson, with the result that one High Court Judge may be reviewing the actions of another. Says this risk is run everytime a Judge is appointed to a Commission of Inquiry.

**8 Dec, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 574, pp14003-14008**  
**Treaty of Waitangi Amendment Bill** (Third Reading)

See *Transcripts of Debates*, p340

**Phil Goff** states –

I must confess to some concern that splitting his time between the High Court and the Waitangi Tribunal will bring pressures on the way in which he can carry out both of those roles. I think that the situation of having an High Court judge who is also Chairperson of the Waitangi Tribunal may well be a one-off thing reflecting his particular skills, and reflecting the fact that hopefully in the future the Waitangi Tribunal will be much less busy as we proceed to deal with and finalise the problems associated with past injustices arising out of the Waitangi Tribunal. Some may say that that is an optimistic viewpoint. Certainly, most of us believe that the bulk of the work to be done by the tribunal will be considered in the immediate future rather than in the long term.

**G Te Heuheu (Associate Min of Treaty Negotiations)** reiterates that Tribunal is a judicial body that acts in a judicial way.

**J Sutton** applauds the move to a larger pool of candidates from which Chairperson of Tribunal may be selected. Says it may be fairly easy to make a Chairperson out of a High Court Judge because of increasing number of Treaty-related cases before the Courts. Expresses hope/opinion that emphasis of future claims will shift from article 2 to article 3 obligations, and that this shift will mean the Chairperson need not necessarily come from the Maori Land Court.

**P Schnauer** says it is unfortunate that there is not someone of equal competence to replace Justice Durie as Chairperson. Refers to need to train suitable Maori candidates to chair Tribunal. Repeats constitutional concerns.

**N Mahuta** agrees with point that claims will shift from article 2 to article 3 and cites some article 3 type claims.

## 1999

**16 Feb, Hansard Question Supplement Vol 36, p52**  
**Written Question 173**

GEOFF BRAYBROOKE to the Minister of Health: Has he or his ministry been advised by HealthCare Hawkes Bay of any progress, if any, in conjunction with any Māori claims under the Treaty of Waitangi currently before the Waitangi Tribunal relating to Napier Hospital or properties owned by

that CHE; if so, what is that advice?

ANSWER :

Hon WYATT CREECH (Minister of Health) replied: There are three claims to the Waitangi Tribunal relating to Napier Hospital or properties owned by Healthcare Hawkes Bay that are presently being inquired into by the panel of the Tribunal hearing the Mohaka ki Ahuriri regional inquiry. These are the three Ahuriri land claim (Wai 400), the Waiohiki land claim (Wai 168) and the Napier hospital services claim (Wai 692).

Claimant evidence in the Wai 400 and Wai 168 claims has already been heard by the Tribunal. The Tribunal is scheduled to hear claimant evidence in the Wai 692 claim in late May 1999.

Healthcare Hawkes Bay is presently assisting with the preparation of evidence for the hearing of the Wai 692 claim by making available relevant information to a researcher commissioned by the Tribunal.

**1 Mar, Hansard Question Supplement Vol 36, p210**  
**Written Question 775**

Hon JIM SUTTON to the Minister in charge of Treaty of Waitangi Negotiations: Will he fund a mandating programme, preparatory to negotiating an ancillary settlement of the Te Whanganui-a-Orutu (WAI 55) claim, along the lines recommended by the Waitangi Tribunal Remedies Report of May 1998; if not, why not?

ANSWER :

Rt Hon Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Government has established processes for providing funding assistance to groups with a recognised mandate to negotiate for settlement of particular Treaty of Waitangi claims. Under those processes funding may be given to a group to assist with mandating costs, but can only be paid once the mandate has been recognised. That is to avoid money being given to groups which have not shown they have the agreement of the wider claimant group to negotiate on their behalf. For that reason I cannot commit the Government to funding any particular group in advance of completing the mandating requirements.

With respect to the WAI 55 claim, I and my officials have clearly indicated to the claimants and to the Waitangi Tribunal that the Crown wishes to negotiate the settlement of the claim as part of a regional negotiation of all the claims of hapu affected by the Waitangi Tribunal's Mohaka ki Ahuriri inquiry. The Tribunal is due to hold its final hearings in this inquiry in July this year. The hapu associated with WAI 55 all have further claims outside the Napier inner harbour area.

The proposal for a regional negotiation was developed to attempt to accommodate the desire of claimants in the inquiry region to make progress toward negotiations. I understand that the WAI 55 claimants have now sought to negotiate a separate settlement.

It is the Crown's strong policy preference to negotiate comprehensive settlements. To negotiate claims hapu by hapu, or to negotiate only some of the claims of a hapu at one time, would be a seemingly endless task and would not provide the finality which the

Government believes New Zealanders want from Treaty settlements.

**4 Mar, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 575, p15293**

**Answers to Oral Questions – Whanganui River Claim**

Whanganui River Claim

4. RANA WAITAI (Independent---Te Puku o te Whenua) to the Minister in charge of Treaty of Waitangi Negotiations: Given that the Pakaitore occupation was reportedly sparked by the Minister's comments, that "The Government does not accept that Maori have an interest akin to ownership in rivers.", is it the Government's intention to regard the Whanganui River claim as invalid; if so, why?

Rt Hon. Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): No. The Government acknowledges that rivers have a special importance to Maori. How that can be recognised is the subject of negotiations.

Rana Waitai: Is the Minister aware that the claims to the Whanganui River are the longest-running claims in New Zealand history, and that the Whanganui River Maori Trust Board was set in place by the Government for the very purpose of resolving the issue; if so, why does he now wish to abrogate the board's function?

Rt Hon. Sir DOUGLAS GRAHAM: The Whanganui River has already been the subject of judicial consideration in the past. The Waitangi Tribunal has already reported on two river claims: the Mohaka and Te Ika Whenua. This is the third claim on rivers, so the tribunal's view is reasonably well known. It is also a fact that Te Ika Whenua has brought proceedings in the High Court to determine Maori interests in rivers, and a decision is pending.

Sandra Lee: If the Government does not accept that Maori have an interest akin to ownership in rivers, how does the Minister explain that the Arahura River is actually owned by the tangata whenua of that place, and was the Minister merely sabre-rattling to pre-empt any decisions and recommendations related to the Whanganui River claim?

Rt Hon. Sir DOUGLAS GRAHAM: The bed of the Arahura River, for 30 kilometres, has long been owned by Mawhera. Riverbeds and lake beds have been returned in the Ngai Tahu settlement.

Sandra Lee: Is the Minister sabre-rattling and pre-empting the claim?

Rt Hon. Sir DOUGLAS GRAHAM: No, I am not sabre-rattling at all. To say that a riverbed or a lake bed is owned by Maori, as in the case of Waikaremoana and other lakes, is a far different thing from saying that Maori own the whole river, including the water. That is a totally different issue.

Hon. Ken Shirley: On reflection, does the Minister concede that the "ownership of water" issue would have been closer to resolution had he, as Attorney-General, referred Judge Heta Hingston's decision to the Court of Appeal early last year, as recommended by ACT New Zealand and his predecessor, the Rt Hon. Paul East?

Rt Hon. Sir DOUGLAS GRAHAM: The question of ownership of water is well established in English common law. Nobody owns "the water". That has been the position in law for a long time. In so far as proceedings before the Maori Land Court and the Maori Appellate Court are concerned, there is always room for the Crown to seek judicial review of the Maori Appellate Court decisions, and that may well happen.

Hon. Jim Sutton: Does the Minister accept that New Zealand, due to its unique history, should have two major sources of common law: British and Maori; if so, how does this influence his stance in respect of treaty claims on both rivers and water.

Rt Hon. Sir DOUGLAS GRAHAM: I could go on for some time on this. English common law divides rivers and natural resources such as rivers into the adjacent banks, the subjacent bed, and the water. Maori people see it holistically as the whole. So there has been a clash of cultures for some time in the way that that issue has been approached. It has yet to be properly resolved, although we did make a lot of progress in the Ngai Tahu resolution. What the Crown could do to recognise the Ngai Tahu's interests in the rivers down there was acceptable to them. But that is not binding on other claimants, who may wish to advance further arguments. I would be happy to hear them. It is the position of the Crown that we will not be going to adjacent landowners and paying compensation to them for the proprietary loss of interest to the centre of the river under the common law principle of *ad medium filum aquae*. That would be an enormously expensive exercise, and would achieve very little.

**5 Mar, Hansard Question Supplement Vol 36, p279**  
**Written Question 1053**

JILL PETTIS to the Minister of Conservation: What progress has been made in establishing a Kauri national park; if none, why not?

ANSWER :

Hon NICK SMITH (Minister of Conservation) replied: As the member will be aware, my department's strategic business plan states that a Kauri national park will be established by June 2000, subject to resolving issues relating to claims before the Waitangi Tribunal. All the areas proposed for the park are subject to claims and until progress is made in settling these, the department is unable to progress the matter to any great extent.

**19 Mar, Hansard Question Supplement Vol 36, p405**  
**Written Question 1496**

Hon JIM SUTTON to the Minister for Courts: In the past year, what claims scheduled to be heard by the Waitangi Tribunal have had hearings postponed, and for each, why was it postponed, who initiated the postponement, when was it scheduled, when was or is it rescheduled for, when were the claimants advised that there would be a postponement, and when were they advised of the new date?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: Between 1 March 1998 and 28 February 1999, the Waitangi Tribunal hearings schedule provided for 108 hearing days. Eighty hearing days relating to enquiries involving 145 claims, actually took place in that period.

The Waitangi Tribunal hearing programme is not comparable with a court registrar's fixture list but is a programme of hearing dates

for current business. Fixtures cannot be obtained from the registrar as they can in the courts. In the Waitangi Tribunal, either the chairperson or the relevant presiding officer sets hearing dates and only after consultation has taken place with affected Tribunal members (most of whom are part-time), and with claimant and Crown counsel. The Tribunal must also take into account the availability of staff to service the hearing and other factors (such as the availability of marae) may also play a part.

During the period in question, four hearings were postponed. In addition, a hearing scheduled for March 1999 and another scheduled for April 1999 have each been rescheduled for hearing during May 1999, and a hearing that had been scheduled for February 1998 took place in March 1998.

Annexed to this reply is a table identifying the postponed hearings, including details of the original dates of hearing, the new dates of hearing, the reasons for the postponement, and the date on which claimants were advised.

Claim/inquiry: for: Claimants advised:	Scheduled for:	Reason for postponement:	Postponement initiated by:	Re-scheduled
Wai 262: Indigenous 3 April By letter dated Flora and Fauna claim 15 January 1998	9-13 February 1998	To enable parties to meet timetabling deadlines	Waitangi Tribunal	30 March- 1998
Wai 216: Te Matai 1 1998 By letter dated and 2 Blocks claim 21 May 1998	8-10 June 1998	Unavailability of Tribunal member (owing to work commitments)	Waitangi Tribunal	29-31 July
Wai 145: Wellington 1998 By letter dated Tenths claim June 1998	17-19 June 1998	Unavailability of Tribunal member (owing to sickness)	Waitangi Tribunal	26-29 June 18
Wai 262: Indigenous August 1998 By facsimile dated Flora and Fauna claim 1998	20-24 July 1998	Claimants not ready to be heard	Claimant counsel	10-14 6 July
Wai 262: Indigenous April 1999 By facsimile dated Flora and Fauna claim March 1999	14-18 December 1998	Claimants not ready to be heard	Claimant counsel	19-23 9
Wai 672: Tauranga May 1999 By telephone Moana (Ngati February 1999 Hangarau Rohe) claim	22-26 March 1998	Claimants and counsel not ready to be heard	Claimant counsel	17-21 20
Wai 692: Napier By letter dated Hospital Services February 1999. claim	26-30 April 1999	Unavailability of claimant counsel	Solicitor for the claimants	24-28 May 1999 16

Answers to Oral Questions – Waitangi Tribunal – Claims

Waitangi Tribunal---Claims

4. PATRICIA SCHNAUER (ACT NZ), on behalf of Hon. DEREK QUIGLEY (ACT NZ), to the Minister for Courts: How many claims filed with the Waitangi Tribunal have yet to be either heard, reported on, or settled?

Hon. GEORGINA TE HEUHEU (Minister for Courts): As of today, 122 claims have been heard, reported on, or otherwise disposed of by the Waitangi Tribunal. This leaves 648 claims outstanding, of which 22 have been heard and are in report-writing stage. In addition a further 137 claims are involved in current hearing inquiries. Claims are negotiated and settled by the Crown, not the Waitangi Tribunal.

Patricia Schnauer: Will the Minister support legislation that does have a cut-off date and does provide for full and final settlement of treaty claims; if not, why not?

Hon. GEORGINA TE HEUHEU: This issue was canvassed in this Parliament not too long ago, and, as I recall, the majority of the House voted against any legislation that would provide for a cut-off date. That does not mean to say, however, that the Waitangi Tribunal and indeed the Government in its own area of responsibility are not looking towards a time-frame or at least some time lines within which these inquiries might be completed. A cut-off date is not helpful to a very complex and detailed process.

Sandra Lee: Does the Minister accept that the treaty is not a finite document and that by virtue of that there will always be the possibility of claims in the future in some form or another, therefore any legislation to end the right to make a claim, given any breach, would be inappropriate---yes or no?

Hon. GEORGINA TE HEUHEU: The questioner has asked for a ``Yes" or a ``No". That question does not lend itself to a ``Yes" or ``No" answer. The reality is that this Government is very aware of what may or may not happen in the future if it does not seek lasting and durable settlements. That is the policy of this Government, and that is how we mean to go on.

Arthur Anae: Does the Waitangi Tribunal intend hearing each of the outstanding 648 claims individually?

Hon. GEORGINA TE HEUHEU: No. The Waitangi Tribunal has grouped claims for inquiry on the basis of inquiry districts. The Tauranga inquiry district for instance, which is in hearing at present, involves 55 claims and is being dealt with as a single inquiry. Currently there are 21 districts awaiting hearings and 14 districts that have been or are being currently dealt with by the Waitangi Tribunal. The House will have heard previously that when the Government settled the Ngai Tahu claim, over 120 ancillary inquiries were dealt with in that single settlement.

Hon. Jim Sutton: How many of these claims relate to rivers and river banks---on which subject Tuku Morgan and other Mauri Pacific MPs have reportedly threatened to withdraw support from the Government---and will the Government give these MPs the assurances they have demanded?

Hon. GEORGINA TE HEUHEU: I do not have the information specifically relating to the river claims, but I can certainly get that information to the Hon. Jim Sutton as soon as possible.



**24 Mar, Hansard Question Supplement Vol 36, p445**  
**Written Question 1631**

Hon DEREK QUIGLEY to the Minister for Courts: How many claims have been filed with the Waitangi Tribunal for each year since it was established up to the present?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: Since the Waitangi Tribunal was established in 1975, 788 claims have been submitted to it. Of those claims submitted, 770 have been accepted for registration with the Tribunal. The number of claims submitted and registered by year is as follows:

Year	Filed	Registered
1975 .. .. .	0	0
1976 .. .. .	1	1
1977 .. .. .	2	2
1978 .. .. .	1	1
1979 .. .. .	1	1
1980 .. .. .	0	0
1981 .. .. .	1	1
1982 .. .. .	1	1
1983 .. .. .	2	1
1984 .. .. .	6	4
1985 .. .. .	9	11
1986 .. .. .	8	5
1987 .. .. .	57	18
1988 .. .. .	34	6
1989 .. .. .	35	54
1990 .. .. .	54	65
1991 .. .. .	61	94
1992 .. .. .	65	74
1993 .. .. .	84	67
1994 .. .. .	69	40
1995 .. .. .	72	108
1996 .. .. .	88	85
1997 .. .. .	45	44
1998 .. .. .	74	74
1999 .. .. .	18	13

**24 Mar, Hansard Question Supplement Vol 36, p445**  
**Written Question 1632**

Hon DEREK QUIGLEY to the Minister for Courts: How many claims filed with the Waitangi Tribunal have been settled, withdrawn or rejected for each year since it was established up to the present?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: Claims under the Treaty of Waitangi Act 1975 are settled through negotiation between claimants and the Crown. The Waitangi Tribunal's function is to make recommendations to the Crown. The Tribunal does not effect

settlements. Of the claims submitted to the Waitangi Tribunal since it was established, 24 have been withdrawn, and 11 have been found by the Tribunal to be not well founded. A table setting out those figures by year follows.

The Waitangi Tribunal has directed that it will not be conducting any further inquiry into a further 36 claims, for a variety of reasons including lack of jurisdiction, failure to prosecute, and existence of alternative remedies.

Year	Withdrawn	Held to be not well-founded
1975	-	-
1976	-	-
1977	-	-
1978	-	1
1979	-	-
1980	-	-
1981	-	-
1982	-	-
1983	-	-
1984	-	-
1985	1	-
1986	-	-
1987	2	-
1988	-	1
1989	1	-
1990	2	-
1991	-	-
1992	-	8
1993	1	-
1994	3	-
1995	1	1
1996	5	-
1997	7	-
1998	1	-
1999	-	-

**16 Apr, Hansard Question Supplement Vol 36, p647**  
**Written Question 2352**

TUTEKAWA WYLLIE to the Minister of Finance: How much money was budgeted in total for ``Maori" in the 1998/99 Budget, and what is the breakdown of figures for the following individual groupings: Maori units within mainstream agencies, Te Puni Kokiri, Treaty Negotiations, Treaty of Waitangi Tribunal, Maori language factor funding in schools, Te Mangai Paho, and Te Taura whiri I te Reo Maori?

ANSWER :

Hon BILL ENGLISH (Minister of Finance) replied: The Government's Budget allocates funding to benefit all New Zealanders. The Treasury does not keep records of the ethnicity of the recipients of Government funding, nor does the Treasury keep records of money allocated to Maori units within mainstream agencies or on Maori

language factor funding in schools. These are matters under the internal budgetary control of departmental chief executives. I refer you to Vote Ministers for this information.

The table following provides information on funding for Crown agencies:

Agency	1998/99 Budget Appropriation (\$ million, GST inclusive)
Te Puni Kokiri .. .. .	47.805
Office of Treaty Settlements .. ..	63.029
Treaty of Waitangi Tribunal .. ..	5.810
Te Mangai Paho .. .. .	17.975
Te Taura Whiri I Te Reo Maori.. ..	0.944

**16 Apr, Hansard Question Supplement Vol 36, p651**  
**Written Question 2365**

Mr DOVER SAMUELS to the Minister for Enterprise and Commerce:  
Was he informed that Ngati Kuri of the Far North have a Waitangi Tribunal claim over Parengarenga Harbour and the silica sand deposits before he issued a mining licence; if so, why did he issue such a licence, and would Ngati Kuri interests be protected; if so, how?

ANSWER :

Hon MAX BRADFORD (Minister for Enterprise and Commerce) replied:  
Yes, I was informed that Ngati Kuri have a claim before the Waitangi Tribunal before I issued a mining permit to ACI NZ Operations Ltd.

Under Wai 633, Ngati Kuri have lodged a claim that relates to the effects of silica sand mining on Parengarenga Harbour and also the rights, powers and remedies of the Aupouri Maori Trust Board in relation to silica sand mining.

The granting of the mining permit will not affect consideration of Ngati Kuri's Treaty claim.

Both Te Aupouri and Ngati Kuri iwi have tangata whenua status at Parengarenga. During the consultation process I received submissions by Maori both opposing and in favour of mining.

After I weighed up all the competing considerations and took into account all views expressed by Maori, I came to the decision that the grounds were established to grant the permit.

**21 Apr, Hansard Question Supplement Vol 36, p698**  
**Written Question 2558**

PATRICIA SCHNAUER to the Minister of Justice: Since the Legal Services Board was established what is the highest amount of legal aid paid in a criminal case and a civil case; in respect of each case, when did the proceedings take place, how long did each case take, how many lawyers were involved, what was the outcome of each case, was a charge available to the Crown in the civil case, and was there any contribution ordered to be paid in the civil case; if so, how much was it, and was it paid?

ANSWER :

Hon TONY RYALL (Minister of Justice) replied: The information requested is set out as follows:

#### Criminal Case

Most costly: A double murder charge  
Total cost: \$570,000  
When: Between May 1996 and November 1996  
Number of lawyers: Two  
Outcome: Three trials, two hung juries, one conviction and an unsuccessful appeal to the Court of Appeal  
Contribution Order: \$20,000 was ordered but as yet has not been paid.

#### Civil Case

Most costly: An ongoing case in the Waitangi Tribunal  
Total cost: \$530,000 to date  
When: From February 1997, ongoing  
Number of lawyers: Ten  
Contribution Order: No contribution or charges as the Legal Services Act 1991 does not generally permit these in Waitangi Tribunal matters.

#### **21 Apr, Hansard Question Supplement Vol 36, p703 Written Question 2572**

JOY QUIGLEY to the Minister for Courts: How many Treaty claims have been dismissed, and how many claims have been reduced, by the Waitangi Tribunal?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: The Waitangi Tribunal has found 11 claims to be not well-founded. Overall the Tribunal has reduced the number of claims by 133. This figure does not include 117 ancillary Ngai Tahu claims that were not registered under separate Wai numbers.

#### **4 May, Hansard Question Supplement Vol 37, p844 Written Question 3021**

PATRICIA SCHNAUER to the Minister of Communications: To ensure that Telecom New Zealand is not able to deny market entry to a competitor and maintain what is a virtual monopoly of the residential telephone market, does he intend to include in the radio spectrum auction conditions a mechanism that will require successful bidders to utilise the spectrum in a way that is economically viable and beneficial to the public of New Zealand?

ANSWER :

Hon MAURICE WILLIAMSON (Minister of Communications) replied: I do not intend to include such a mechanism. Government policy is that acquisitions of spectrum which may lead to competition concerns are subject to clearance under the Commerce Act 1986. The Commerce Commission is a specialist body geared to consider competition issues after hearing the views of all interested parties. The Ministry of Commerce's auction policy is to require provisional winning bidders to obtain clearance from the Commerce Commission or to explain why that is unnecessary. In addition, Government policy is not to mandate the particular use to which spectrum is put. I note that the spectrum referred to is the subject of a Waitangi Tribunal hearing and the Crown will consider the recommendations of the Tribunal before any further decisions relating to the auction are made.

The cost of preparing this answer is approximately \$110.00.

**28 May, Hansard Question Supplement Vol 37, p1127**  
**Written Question 4030**

Mr DOVER SAMUELS to the Minister of Transport: What roads in Northland are subject to Waitangi Tribunal claims, has his ministry researched and investigated the impact and effect of such claims on the Government's policy of communication about those roads, what consultations and reports have taken place with Māori so far, and what were their concerns?

ANSWER :

Hon MAURICE WILLIAMSON (Minister of Transport) replied: Better Transport Better Roads is the Government's proposal to improve the way that we fund and manage our roading network. It seeks to preserve the interests of Māori in a number of ways, including those roads that are subject to Waitangi Tribunal claims. The proposal states that any land leased to the proposed state highway company, Transit New Zealand Ltd., would be subject to the protection mechanisms for surplus Crown land, thus ensuring its availability for potential use in settlement of Treaty of Waitangi claims, should it become surplus to road requirements.

In addition, the proposal preserves the interests of Māori in a number of other ways, including requiring public road companies to consult with Māori over any roadwork which affects Māori land, or Māori historical, cultural or spiritual interests. The proposal also requires the traditional role of Māori to be taken into account when determining the boundaries of the proposed road companies.

The Government has recently concluded a series of briefings around New Zealand on Better Transport Better Roads, and this included a series of regional hui, including in Northland. This was the fourth round of discussions that the Government has undertaken with Māori concerning the funding and management of our roading network. The first occurred in late 1997 with a national hui.

Hui were held throughout the country in order to obtain a cross-section of views on the proposed changes from all sectors of the Māori community. Written material explaining the Government's proposals was also distributed to those Māori organisations and individuals that had been involved in previous roading discussions.

Issues arising from the regional hui, and written and oral submissions on the proposals by Māori, included a recognition of the

problems relating to roading in New Zealand and the consequent need for change. Points of concern raised by Maori included representation on, and ownership of, the proposed roading companies, funding of Maori roadways, and the relationship between the Crown and Maori.

I am advised that the cost of preparing this answer is approximately \$168.00.

**15 Jun, Hansard Question Supplement Vol 37, p1237**  
**Written Question 4494**

Dr MURIEL NEWMAN to the Minister for Courts: How many claims under the provisions of the Treaty of Waitangi Act 1975 are presently lodged, and what is the total dollar value of the amounts being claimed?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: There have been 779 claims registered with the Waitangi Tribunal in the 24 years since the Tribunal was established in 1975. Claimants are required to establish that they are Maori, and they do have a claim that they have been prejudicially affected by legislation, or policies, or acts or omissions of the Crown after 6 February 1840, for their claim to be registered. When lodging a claim, claimants are not required to propose remedies, such as a dollar amount of compensation, and almost without exception do not. The Tribunal inquiry into a claim does not consider the issue of remedies that could include monetary compensation. However, the Tribunal may reserve leave to the claimants to seek a further hearing on the question of remedies, including recommendations on appropriate monetary compensation, should parties be unable to reach a negotiated settlement.

Consideration of dollar amounts for settlements usually only arises in settlement negotiations with the Government.

**24 Jun, Hansard Question Supplement Vol 37, p1342**  
**Written Question 4973**

Hon RICHARD PREBBLE to the Minister of Conservation: What is the expected cost to the taxpayer in respect of lands and species under his department's control if the Wai 262 case before the Waitangi Tribunal recommends in establishing Maori property rights over all native species in New Zealand, and has the department commenced contingency planning or produced reports on the implications of Wai 262 to its legal powers, operations, liabilities and responsibilities?

ANSWER :

Hon NICK SMITH (Minister of Conservation) replied: WAI 262 is still in the preliminary stages and it is too soon to produce useful projections on possible implications for my department or for the taxpayer.

**30 Jun, Hansard Question Supplement Vol 37, p1417**  
**Written Question 5369**

Mr DOVER SAMUELS to the Minister in charge of Treaty of Waitangi Negotiations: Does the Government intend to abide by the recommendations of the Waitangi Tribunal in its determination over the claim by the Whanganui River Trust Board, representing Te Iwi O Whanganui to the Whanganui river; if not, why not?

ANSWER :

Rt Hon Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The Government is at present considering the report by the Waitangi Tribunal on the Whanganui River claim and will respond to the recommendations of the Tribunal when this process is completed.

**30 Jun, Hansard Question Supplement Vol 37, p1425**  
**Written Question 5405**

Dr MURIEL NEWMAN to the Minister for Courts: How many claims under the provisions of the Treaty of Waitangi Act 1975 have been registered year by year?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: The number of claims, year by year, that have been accepted for registration with the Waitangi Tribunal up to 30 June 1999 is as follows:

1975	.. .. .	0
1976	.. .. .	1
1977	.. .. .	2
1978	.. .. .	1
1979	.. .. .	1
1980	.. .. .	0
1981	.. .. .	1
1982	.. .. .	1
1983	.. .. .	1
1984	.. .. .	4
1985	.. .. .	11
1986	.. .. .	5
1987	.. .. .	18
1988	.. .. .	6
1989	.. .. .	54
1990	.. .. .	65
1991	.. .. .	94
1992	.. .. .	74
1993	.. .. .	67
1994	.. .. .	40
1995	.. .. .	108
1996	.. .. .	85
1997	.. .. .	44
1998	.. .. .	74
1999	.. .. .	22

**30 Jun, Hansard Question Supplement Vol 37, p1426**

### **Written Question 5407**

Dr MURIEL NEWMAN to the Minister in charge of Treaty of Waitangi Negotiations: What are the stages in the settlement process, for example claim registration, Tribunal inquiry, recommendation to the Crown and final settlement, and for each of the claims settled between Māori and the Crown, how long has it taken to reach each stage in the settlement process?

ANSWER :

Rt Hon Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: Treaty of Waitangi claimants can choose either to have their claim heard by the Waitangi Tribunal before seeking to negotiate a settlement with the Crown, or can seek direct negotiations with the Crown without the claim being heard by the Waitangi Tribunal. The following table lists, for those Treaty of Waitangi claims which have been settled and which were first heard by the Waitangi Tribunal, the date each claim was registered with the Waitangi Tribunal, the date the Tribunal inquiry commenced, the date of the Tribunal's recommendations to the Crown and the date of the Deed of Settlement.

Claimant Group	Waitangi Tribunal claim number	Date registered with the Tribunal	Date inquiry commenced	Date of Tribunal's recommendations	Date of deed of settlement
Ngai Tahu	27	August 1986	August 1987	February 1991	November 1997
Ngati Rangiteaorere	32	April 1987	December 1989	December 1990	October 1993
Turangitukua	84	August 1987	April 1994	September 1995	September 1998
Te Maunga	315	November 1992	December 1993	August 1994	October 1996

### **30 Jun, Hansard Question Supplement Vol 37, p1427 Written Question 5408**

Dr MURIEL NEWMAN to the Minister in charge of Treaty of Waitangi Negotiations: For each of the claims settled between Māori and the Crown, how long has it taken between the time the claim was registered with the Waitangi Tribunal and the time the final settlement with the Crown was signed?

ANSWER :

Rt Hon Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: The following table lists, for each of the Treaty of Waitangi claims settled between Māori and the Crown, the date the claim was registered with the Waitangi Tribunal and the date the final settlement with the Crown was signed.

Settlements

Claimant group	Waitangi Tribunal claim	Date registered with the Tribunal	Date of deed of settlement
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number

Fisheries .. .. .	Not registered with the Tribunal	September 1992
Ngati Whakaue .. .. .	94 May 1989	September 1993
Ngati Rangiteaorere ..	32 April 1987	October 1993
Hauai .. .. .	200 May 1991	October 1993
Tainui Raupatu .. .. .	30 March 1987	May 1995
Waimakuku .. .. .	147 May 1990	December 1995
Rotoma .. .. .	90 August 1989	October 1996
Te Maunga .. .. .	315 November 1992	October 1996
Ngai Tahu .. .. .	27 August 1986	November 1997
Turangitukua .. .. .	84 August 1987	September 1998

**30 Jun, Hansard Question Supplement Vol 37, p1427**  
**Written Question 5409**

Dr MURIEL NEWMAN to the Minister for Courts: When does she expect all 779 Treaty Claims currently registered with the Waitangi Tribunal to be settled?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: The Waitangi Tribunal's long term planning indicates that all historical claims ought to be researched, inquired into and reported on by 2012, including any historical claims registered between now and then. Some contemporary and generic claims may remain beyond that time to be dealt with. Claims are settled in negotiation with the Government. Negotiations usually follow the Tribunal's reports although an increasing number may bypass the Waitangi Tribunal process and be negotiated directly. I am not able to pre-empt negotiation processes between claimants and the Government by attempting to stipulate how long those processes may take. However, I do expect the majority of claims presently registered with the Waitangi Tribunal to have been dealt with by the Tribunal within the next 10 to 12 years.

**30 Jun, Hansard Question Supplement Vol 37, p1427**  
**Written Question 5411**

Dr MURIEL NEWMAN to the Minister for Courts: When does he expect all Treaty claims to be lodged with the Waitangi Tribunal?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: The Treaty of Waitangi Act 1975 was enacted by **Parliament** to provide for the observance, and confirmation, of the principles of the Treaty of Waitangi not only in respect of past policies and practices adopted by or on behalf of the Crown, but also in respect of current and future policies and practices. Observance of the principles of the Treaty of Waitangi now and in the future is just as important as it was in the past. Unless and until **Parliament** decides otherwise, Māori may continue to submit claims to the Waitangi Tribunal. However, it is expected, on current progress, that the Waitangi

Tribunal will have dealt with the historical claims by 2012.

**30 Jun, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 578, p17784**

**Answers to Oral Questions – Maori Ownership of Rivers**

Maori---Ownership of Rivers

9. Hon. KEN SHIRLEY (Deputy Leader---ACT NZ) to the Minister in charge of Treaty of Waitangi Negotiations: Does the Government accept that Maori have an interest akin to ownership in rivers?

Rt Hon. Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations): In the sense that concepts of ownership are understood in the law inherited from England, the answer is no.

Hon. Ken Shirley: Can the Minister reconcile the statement made by the Waitangi Tribunal, that its findings should not create a precedent, with this statement made by the spokesperson for the Mohaka River claimants on Morning Report this morning: ``If Wanganui gets back the water, well it's all go then." and also with the report's specific reference to Tainui ownership of the Waikato River?

Rt Hon. Sir DOUGLAS GRAHAM: It is not for me to reconcile statements made by the tribunal with those made by some other tribe.

Hon. Ken Shirley: What's the Minister's job then?

Rt Hon. Sir DOUGLAS GRAHAM: If I had that job, nobody else would have a job at all. Suffice to say that all river tribes, and indeed I suspect many tribes, would claim to have a kaitiaki or trusteeship role in respect of rivers and that they are concerned about the welfare of the rivers. I hope that most New Zealanders would share their concerns.

Hon. Jim Sutton: Will the Minister assure New Zealanders that he will not satisfy the valid grievances of river Maori by interfering with public access or the Queen's Chain, thereby creating new grievances?

Rt Hon. Sir DOUGLAS GRAHAM: This country has to work out how to work together, Maori and non-Maori, for the preservation and improvement of rivers. I do not think all Maori people see it the same way. Waikato Maori do not seem to be claiming ownership in the same way that Wanganui Maori might be, but they certainly are asserting a kaitiaki role that they wish to have recognised. If we try to work out what it is that we are all trying to achieve, then semantic arguments about river banks, riverbeds, ad medium filum aquae, and all those things may become less important.

Rt Hon. Winston Peters: Can the Minister confirm that the law under which the claim was made was passed by the Labour Government of which Mr Prebble and Mr Shirley were members, and is the law that they voted for in this House?

Rt Hon. Sir DOUGLAS GRAHAM: Certainly the statute gave them the right to bring the claim before the Waitangi Tribunal, and that statute was passed by the Labour Government.

An Hon. Member: They voted for it.

Rt Hon. Sir DOUGLAS GRAHAM: That is true, and that being so we have to find a solution to it.

Hon. Tau Henare: Is the Minister aware of another concept of ownership under Maori lore, as opposed to English law; if so, does the Minister believe the two can work side by side?

Rt Hon. Sir DOUGLAS GRAHAM: It is certainly true that Maori people have their own lore and our task is to try to merge that with English

law, for the benefit of all New Zealanders, Maori and non-Maori.

Sandra Lee: Does the Minister support and endorse the recommendations from the Waitangi Tribunal on the Whanganui River claim; if so, what advice will he be giving to his Cabinet in terms of the upholding of the recommendations contained therein?

Rt Hon. Sir DOUGLAS GRAHAM: The Government has yet to consider the report that was released just last Saturday, which runs to some hundreds of pages. We will carefully consider the recommendations. They are not entirely consistent with Mohaka or the Te Ika Whenua Rivers Report. There are differences. In due course we will try to let it be known to what extent the recommendations in the Whanganui River report are accepted by the Government.

I must say I have been very impressed with the way the Whanganui River report has been received generally and in a very constructive way by almost everybody. I think there is a general acceptance that these are not easy issues, and what we have to do is ask what it is that Maori are trying to achieve that is contrary to the interests of non-Maori. The answer at the end of the day is: very little, if anything.

**1 Jul, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 578, p17847**

**Answers to Oral Questions – Radiocommunications Act - Waitangi Tribunal**

Radiocommunications Act---Waitangi Tribunal

10. Rev. ANN BATTEN (Independent) to the Minister of Communications: Has the Waitangi Tribunal found an aspect of the Radiocommunications Act 1989 wanting; if so, is the Government giving consideration to that aspect?

Rt Hon. Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations), on behalf of the Minister of Communications: The majority finding of the tribunal was ``that the Radiocommunications Act 1989, in so far as it allows the Crown to alienate management rights to the spectrum from 9 kHz to 3000 GHz, without consultation with Maori and without allowing them a fair and equitable share of those rights, is in breach of the principles of the Treaty of Waitangi." The Government is considering all aspects of the tribunal's report.

Rev. Ann Batten: When can the House expect a response to the tribunal's report?

Rt Hon. Sir DOUGLAS GRAHAM: Whilst this matter is quite difficult, nevertheless it requires a reasonably early response. I would imagine it will probably take 2 or 3 months.

Marian Hobbs: Does the Minister accept that the reason behind this appeal arises out of a determination to promote te reo Maori, and therefore does he agree with the statement made by Annette Sykes in the New Zealand Herald today that the Government had been forced to concede that it had not done enough with the language; if not, why not?

Rt Hon. Sir DOUGLAS GRAHAM: The Government has not conceded any such thing, and it is not entirely a matter of te reo Maori. This report goes to the matter of the assertion of rights under the treaty to share in the allocation of natural resources. The issue really is whether, as is found by the majority, the electromagnetic spectrum was a valued taonga to Maori in 1840.

Pansy Wong: Would the Minister's task be made more difficult because the tribunal's finding is not unanimous?

Rt Hon. Sir DOUGLAS GRAHAM: It is unusual that the tribunal does have a dissenting view, but there was a dissenting view in the interim ruling on this matter that has been carried through to the final ruling, and, obviously, there is disagreement within the tribunal itself.

Sandra Lee: Does the Minister recall the decision of the Privy Council on this matter, which specifically stated that the retention of the Maori language in this country was dependent on access to airways; if so, what advice was he giving at the point of sale to his Cabinet, and why is he now facetiously referring to those airways as a Maori taonga, as if to suggest that the issue does not relate to the survival of the indigenous language of this country?

Rt Hon. Sir DOUGLAS GRAHAM: The question of whether the spectrum was required to promote and protect the Maori language was the second limb of this particular case. The first limb was whether the electromagnetic spectrum was recognised, known to, and valued by Maori as a taonga in 1840. Some members of the tribunal say that yes, it was, and the other dissenting view says that no, it was not.

Hon. Richard Prebble: I raise a point of order, Mr Speaker. I am raising my point of order now, because no doubt the matter will come up again. I think that when you are looking at questions you should consider taking the feeling of the---[Interruption] Take into---[Interruption] Can I speak to you rather than to Mr Peters?

Mr DEPUTY SPEAKER: I ask the right honourable gentleman please to restrain himself.

Hon. Richard Prebble: You just had a question about the Waitangi Tribunal. Every member of this House realises that the ACT party has a different view on this matter from that of any other party. We sought a question persistently and you, perhaps without thinking about it, proceeded to call members from different parties who were all asking the same thing, which is basically how fast the Government was going to hand over these assets. Yet a party that wished to raise a question saying: ``How can this possibly be so?'' was not allowed to ask a question.

Mr DEPUTY SPEAKER: Speaker's ruling 121/1 is quite insistent. There is not an absolute right to supplementary questions at all. I do not have a crystal ball. I have no idea what the ACT member's questions are going to be. What I do know is that if we do not make progress, with some members here we would still be on question time at 6 o'clock this evening.

**8 Jul, Hansard Question Supplement Vol 37, p1501**  
**Written Question 5711**

STEVE MAHAREY to the Minister for Courts: Is section 201 of the Town of Palmerston North, certificate of title 42C/371, part of any claim lodged with the Waitangi Tribunal; if so, with which claim?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: There are registered claims in the general Palmerston North area but none that specifically names the property as described. In general, the information contained in statements of claim seldom refers to specific properties or the legal description of land.

**14 Jul, Hansard Question Supplement Vol 38, p1532**  
**Written Question 5829**

GEOFF BRAYBROOKE to the Minister for Courts: How many claims are currently before the Waitangi Tribunal from iwi representing the people of Ngati Kahungunu, what is a brief description of these claims, and what are the dates when they were submitted?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: A precise answer to the question cannot be given. Under section 6 of the Treaty of Waitangi Act 1975 claims must be made by an individual person of Maori descent and the Waitangi Tribunal does not group or organise claims according to iwi, nor does the Tribunal necessarily record on whose behalf claims are made. The practice of the Waitangi Tribunal is to group claims by region or district. In the time available, a list of claims drawn from the Wairarapa, Hawke's Bay, Mohaka ki Ahuriri, and Wairoa districts has been prepared and is attached. The list, which is not necessarily exhaustive, is made up of only those claims in which the claimant has identified Ngati Kahungunu as having an interest and accordingly does not represent all the claims in the relevant districts. The list includes a brief description of each claim and the date each was submitted. A copy of the list has been supplied to the member separately, and also the **Parliamentary Library**.

**21 Jul, Hansard Question Supplement Vol 38, p1575**  
**Written Question 6008**

Hon KEN SHIRLEY to the Minister of Finance: How many Waitangi Tribunal claims have received funding from the Crown Forestry Rental Trust, what is the average amount of funding per claim, and what is the range of the funding from lowest to highest payment?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: Information on funding provided to claimants for the period of the Trust's inception until 31 March 1997, has been supplied to the member separately. I released this information to the media in June 1997.

Also supplied to the member is a copy of the CFRT's 1997/98 Annual Report to Appointors which records funding made available during the period 1 April 1997 to 31 March 1998.

I have not yet received a copy of the Trust's 1998/99 Annual Report to Appointors. Consequently, I am unable to provide the latest year's data at this time.

**21 Jul, Hansard Question Supplement Vol 38, p1576**  
**Written Question 6009**

Hon KEN SHIRLEY to the Minister of Finance: Who have been the top 100 recipients of funding for Waitangi Tribunal claims from the Crown

Forestry Rental Trust since the inception of the trust, and how much funding have they each received?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: Please refer to the information appended to the answer to your **Parliamentary** question No. 6008 for this information.

**21 Jul, Hansard Question Supplement Vol 38, p1576**  
**Written Question 6011**

Hon KEN SHIRLEY to the Minister of Finance: Is it correct that the Crown Forestry Rental Trust has exhausted \$156 million on Waitangi Tribunal claims as asserted in the National Business Review of 2 July 1999, in its front page article headlined ``Waitangi gravy train `roaringly' off the rails"?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: The CFRT has not exhausted \$156 million on Waitangi Tribunal claims. Since its inception, it has charged \$44 million in costs, partly in assistance to claimants and partly to meet administrative costs.

**21 Jul, Hansard Question Supplement Vol 38, p1576**  
**Written Question 6012**

Hon KEN SHIRLEY to the Minister of Finance: In who will the assets of the Crown Forestry Rental Trust be vested when the trust has ceased to fund Waitangi Tribunal claims?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: The assets of the CFRT are largely accumulated rentals from Crown forest licences. The rentals are held by the CFRT pending resolution of ownership of the underlying land through either the Waitangi Tribunal or the Crown's Treaty settlements process. On determination of ownership, the accumulated rentals associated with a particular forest land holding are returned to the owner, be it Maori or the Crown.

**21 Jul, Hansard Question Supplement Vol 38, p1577**  
**Written Question 6014**

Hon KEN SHIRLEY to the Minister of Finance: Can he confirm that there is no conflict of interest for any trustee of the Crown Forests Rental Trust in respect of any grants made to fund Waitangi Tribunal claims and the duties of trusteeship?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: The Crown

has input into appointing the Crown trustees only. As part of the appointment process, nominated trustees are required to disclose other directorships and any other matters which may cause a conflict of interest. I confirm that none of the Crown's trustees have conflicts of interest.

**21 Jul, Hansard Question Supplement Vol 38, p1577**  
**Written Question 6015**

Hon KEN SHIRLEY to the Minister of Finance: Have any persons or organisations that have a claim before the Waitangi Tribunal or are preparing such a claim received funding from both legal aid and the Crown Forestry Rental Trust; if so, who have been the recipients of this funding, and how much did they receive as legal aid and payment from the trust respectively?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: I recommend that you seek information about recipients of legal aid from the Minister of Justice or the Legal Services Board. The information that I have appended to your **Parliamentary** question No. 6008 may assist you in defining to the Attorney-General those parties you are interested in.

**21 Jul, Hansard Question Supplement Vol 38, p1577**  
**Written Question 6017**

Hon KEN SHIRLEY to the Speaker: Has the Auditor General's office audited the management and the Waitangi Tribunal funding grants of the Crown Forestry Rental Trust, and have there been any adverse findings by the Auditor General?

ANSWER :

Mr SPEAKER replied: The Audit Office is not the auditor of the Crown Forestry Rentals Trust and, therefore, the Controller and Auditor-General has no authority to carry out such an audit. The audit arrangements applying to the Trust are a matter for determination in terms of the deed by which the Trust is established (as directed by section 34, Crown Forest Assets Act 1989).

**25 Aug, 45<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 579, p18772**  
**Answers to Oral Questions – Waitangi Tribunal – Conflicts of Interest**

Waitangi Tribunal---Conflicts of Interest

6. PATRICIA SCHNAUER (ACT NZ) to the Minister of Maori Affairs: Does he intend to look into allegations of conflict of interest in the Waitangi Tribunal, made in the National Business Review of 20 August?

Rt Hon. Sir DOUGLAS GRAHAM (Attorney-General), on behalf of the Minister of Maori Affairs: No. The matter is being considered by the Attorney-General.

Patricia Schnauer: How can the Minister refuse to investigate further when Buddy Mikaere, a former Waitangi Tribunal director, has

provided new evidence that accuses the chairman of the Waitangi Tribunal, Mr Edward Durie, of being involved in preparing briefs for cases later heard by the tribunal?

Rt Hon. Sir DOUGLAS GRAHAM: The reason that the Minister has not taken the matter any further is that the Attorney-General is looking into all those matters.

Mr Dover Samuels: Does the Minister have confidence in the Chief Justice to conduct the appropriate inquiry if she thinks it is necessary?

Mr SPEAKER: We are not able to pursue matters in this House that relate to the judiciary except by one procedure only---that is, by setting down a notice of motion of the proper kind. I rule the question out.

Rt Hon. Jonathan Hunt: I raise a point of order, Mr Speaker. Acknowledging that that is one of the Standing Orders, why then did you allow the preceding supplementary question that questioned the actions of a judge?

Patricia Schnauer: I did not refer to a member of the judiciary. I referred to the chairman of the Waitangi Tribunal.

Mr SPEAKER: I do not have to resort to splitting hairs like that. The member was corroborating a matter of public affairs raised. If the question had gone much further it would have been shut down, too. The answer was kept tight, which kept off the ground. We were OK---just---up to that point.

Sandra Lee: Does the Minister accept that the allegations of conflict of interest may well have more to do with Mrs Donna Hall's advocacy for urban Maori over fisheries claims than her relationship as a married woman with the chairman of the tribunal?

Rt Hon. Sir DOUGLAS GRAHAM: I do not think it is appropriate for me to answer a question of that kind.

**30 Aug, Hansard Question Supplement Vol 38, p1827**  
**Written Question 7056**

Hon RICHARD PREBBLE to the Minister for Courts: What is the total number of Treaty of Waitangi claims that have been lodged with the Waitangi Tribunal for land in Wellington Central?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: There are eleven claims related to land within the Wellington Central electorate. These eleven claims form part of the Wellington Tenth's inquiry which is to be reported on by the Waitangi Tribunal later this year.

**2 Sept, Hansard Question Supplement Vol 38, p1856**  
**Written Question 7166**

PATRICIA SCHNAUER to the Minister of Finance: Are lawyers appearing before the Waitangi Tribunal paid by the Crown Forestry Rental Trust according to their experience; if so, what are the hourly rates paid, and what are the experience criteria for each rate?

ANSWER :



Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: The Crown Forestry Rental Trust does not engage legal counsel to appear before the Waitangi Tribunal. The Legal Services Board is responsible for appointing legal counsel. Your question should be directed to the Minister of Justice.

**2 Sept, Hansard Question Supplement Vol 38, p1857**  
**Written Question 7168**

PATRICIA SCHNAUER to the Minister of Finance: What is the hourly rate paid by the Crown Forestry Rental Trust to lawyers appearing before the Waitangi Tribunal?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: The Crown Forestry Rental Trust does not engage or pay lawyers to appear before the Waitangi Tribunal.

**2 Sept, Hansard Question Supplement Vol 38, p1857**  
**Written Question 7169**

PATRICIA SCHNAUER to the Minister of Finance: Who are the recipients who have received funding or grants for research to pursue a claim before the Waitangi Tribunal from the Crown Forestry Rental Trust since 1990, what was the amount paid for or on behalf of each individual or group, of the claims researched how many have been concluded, of the claims not concluded what is the estimate of future costs required to complete those claims to finality, has funding for the claims been approved with or without a ceiling; if a ceiling applies for each claim, what is the total of the ceilings approved for those recipients; if there is no ceiling, what sum has been budgeted for the 1999/2000 year and subsequent years to cover the costs of those claims; if

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: Please refer to information attached to my answer to your **Parliamentary** question No. 7172 which identifies recipients of funding from the Crown Forestry Rental Trust.

I am advised by the Crown Forestry Rental Trust that ceilings do not apply for each claim. Work is undertaken to achieve outcomes and milestones towards outcomes. Assessments of probability of successfully concluding claim requirements are regularly made and active support of claim preparation ceased if outcomes are unlikely.

**2 Sept, Hansard Question Supplement Vol 38, p1857**  
**Written Question 7170**

PATRICIA SCHNAUER to the Minister of Finance: Has he received reports of any law firms who have received funding specifically from the Crown Forestry Rental Trust to bring claims before the Waitangi Tribunal; if so, who are those law firms and what was the amount paid to date to each law firm, of the claims handled by those law firms, how many of the claims are

concluded, what is the estimate of the future costs required to complete those claims to finality, has funding for the claims been approved with or without a ceiling; if a ceiling applies for each claim, what is the total of the ceilings approved for those law firms; if there is no ceiling, what sum has been budgeted for the 1999/2000 year and subsequent years to cover the costs of

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: I have not received any reports of any law firms who have received funding specifically from the Crown Forestry Rental Trust to bring claims before the Waitangi Tribunal.

**2 Sept, Hansard Question Supplement Vol 38, p1858**  
**Written Question 7171**

PATRICIA SCHNAUER to the Minister of Finance: What is the maximum number of lawyers and researchers being funded by the Crown Forestry Rental Trust on any one Waitangi Tribunal claim?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: The Crown Forestry Rental Trust does not fund lawyers to appear for claimants in the Waitangi Tribunal.

I am advised by the Crown Forestry Rental Trust that there is no ceiling on numbers of researchers; the Crown Forestry Rental Trust contracts or engages as few or as many researchers needed to meet required outcomes.

**2 Sept, Hansard Question Supplement Vol 38, p1858**  
**Written Question 7172**

PATRICIA SCHNAUER to the Minister of Finance: How many Treaty of Waitangi claims received research funding from the Crown Forestry Rental Trust and did not proceed to a hearing before the Waitangi Tribunal, of those claims, how much was paid in respect of each claim, and what were the reasons for the claim not proceeding?

ANSWER :

Rt Hon Sir WILLIAM BIRCH (Minister of Finance) replied: Information on funding, provided to claimants for the period since the Trust's inception until 31 March 1999, has been supplied to the member separately.

These excerpts record the status of claims with respect to progress towards hearings in the Waitangi Tribunal or direct negotiations with the Crown.

**6 Sept, Hansard Question Supplement Vol 38, p1885**  
**Written Question 7276**

MARIAN HOBBS to the Minister of Communications: When will the Government respond to the Waitangi Tribunal Report on The Radio Spectrum?

ANSWER :

Hon MAURICE WILLIAMSON (Minister of Communications) replied: The Government will respond to the Tribunal's report once it has fully considered the Tribunal's findings and recommendations.

The approximate cost of answering this question is \$25 (GST inclusive).

**6 Sept, Hansard Question Supplement Vol 38, p1885**  
**Written Question 7277**

MARIAN HOBBS to the Minister in charge of Treaty of Waitangi Negotiations: When will the Government respond to the Waitangi Tribunal Report on The Radio Spectrum?

ANSWER :

Rt Hon Sir DOUGLAS GRAHAM (Minister in charge of Treaty of Waitangi Negotiations) replied: I would refer the member to the reply to Parliamentary question for written answer No. 7276.

**24 Sept, Hansard Question Supplement Vol 38, p2004**  
**Written Question 7738**

RODNEY HIDE to the Minister for Courts: How many claims currently lodged with the Waitangi Tribunal impact on resources within the Epsom electorate, including such things as claims for the airwaves?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: There are currently approximately 45 claims that could potentially impact resources within the Epsom electorate. Of these 36 are generic claims such as the Radio Spectrum Management and Development claim.

**4 Oct, Hansard Question Supplement Vol 38, p2037**  
**Written Question 7911**

RODNEY HIDE to the Minister for Courts: How many claims currently lodged with the Waitangi Tribunal impact on resources within the West Coast-Tasman, Kaikoura, Clutha-Southland, Otago, Aoraki, Rakaia, Christchurch East, Christchurch Central, Wigram, Ilam, Banks Peninsula and Waimakariri electorate, including such things as claims for the airwaves?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: There are a number of generic claims registered with the Waitangi Tribunal:

Some of these generic claims may have implications for resources in the electorates in question. As to claims that are specific to those electorates, it has not been possible to obtain the information required to enable me to respond to this question by the due date. Claims to the Waitangi Tribunal are not, generally, specific in terms

of particular locations or areas and the Waitangi Tribunal does not categorise claims by reference to electoral districts. Accordingly, the work needed to review claims in order to provide the information requested is considerable. I undertake to provide the member with a copy of the information once it is available. A copy will also be lodged with the **Parliamentary** Library for perusal by other members.

**4 Oct, Hansard Question Supplement Vol 38, p2038**  
**Written Question 7912**

RODNEY HIDE to the Minister for Courts: How many claims currently lodged with the Waitangi Tribunal impact on resources within the Northland, Whangarei, Hamilton East, Hamilton West, Port Waikato, Karapiro, Tauranga, Bay of Plenty, Rotorua, Taranaki King Country, Taupo, and East Coast electorates, including such things as claims for the airwaves?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: There are a number of generic claims registered with the Waitangi Tribunal:

Some of these generic claims may have implications for resources in the electorates in question. As to claims that are specific to those electorates, it has not been possible to obtain the information required to enable me to respond to this question by the due date. Claims to the Waitangi Tribunal are not, generally, specific in terms of particular locations or areas and the Waitangi Tribunal does not categorise claims by reference to electoral districts. Accordingly, the work needed to review claims in order to provide the information requested is considerable. I undertake to provide the member with a copy of the information once it is available. A copy will also be lodged with the **Parliamentary** Library for perusal by other members.

**4 Oct, Hansard Question Supplement Vol 38, p2038**  
**Written Question 7913**

RODNEY HIDE to the Minister for Courts: How many claims currently lodged with the Waitangi Tribunal impact on resources within the Auckland Central, Albany, Northcote, North Shore, Titirangi, Te Atatu, Mt Albert, Mt Roskill, Tamaki, Mangakiekie, Pakuranga, Manukau East and Mangere electorates, including such things as claims for the airwaves?

ANSWER :

Hon GEORGINA TE HEUHEU (Minister for Courts) replied: There are a number of generic claims registered with the Waitangi Tribunal. Some of these generic claims may have implications for resources in the electorates in question. As to claims that are specific to those electorates, it has not been possible to obtain the information required to enable me to respond to this question by the due date. Claims to the Waitangi Tribunal are not, generally, specific in terms of particular locations or areas and the Waitangi Tribunal does not categorise claims by reference to electoral districts. Accordingly, the work needed to review claims in order to provide the information requested is considerable. I undertake to provide the member with a copy of the information once it is available. A copy will also be

lodged with the **Parliamentary Library** for perusal by other members.

**22 Dec, Hansard Question Supplement Vol 39, p93**

**Written Question 504**

Hon KEN SHIRLEY to the Minister in charge of Treaty of Waitangi Negotiations: In the event of a successful Waitangi Tribunal claim, will the value of compensation paid by the Crown to the vendor land owner be current market evaluation, or will some other formula be applied?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: If land has a memorial on the title allowing the land to be resumed by order of the Waitangi Tribunal, and the land is required for a Treaty settlement, compensation will be paid to the land owner pursuant to the provisions of the Public Works Act 1981.

**22 Dec, Hansard Question Supplement Vol 39, p93**

**Written Question 505**

Hon KEN SHIRLEY to the Minister in charge of Treaty of Waitangi Negotiations: Will the current Government entertain Waitangi Tribunal claims against private individuals whose land is held in torrens title?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: No. Since 1993, legislation has prevented the Waitangi Tribunal from recommending that the Crown acquire non-memorialised private land for a Treaty settlement.

**22 Dec, Hansard Question Supplement Vol 39, p93**

**Written Question 506**

Hon KEN SHIRLEY to the Minister in charge of Treaty of Waitangi Negotiations: Will this Government grant an appeal or review of the previous Government's decision where land has been taken pursuant to the Waitangi Tribunal recommendation where evidence exists to show the claim was flawed and historically incorrect?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: I am not aware of any case where land has been taken pursuant to a Waitangi Tribunal recommendation, except where the land has had a memorial registered against the title allowing the land to be resumed by Order of the Waitangi Tribunal. Other land acquired by the Crown pursuant to a Waitangi Tribunal recommendation has been on a willing seller basis. Since 1993, legislation has prevented the Waitangi Tribunal from recommending that the Crown acquire private non-memorialised land for a Treaty settlement.

**22 Dec, Hansard Question Supplement Vol 39, p93**  
**Written Question 507**

Hon KEN SHIRLEY to the Minister in charge of Treaty of Waitangi Negotiations: Will this Government return land taken by the previous Government pursuant to a forced sale to the Crown where the land has not been subject to a Waitangi Tribunal claim but has been taken as part of an overall settlement?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: I am not aware of any land being taken by the Government by forced sale for a Treaty settlement, unless that land had a memorial registered on the title allowing it to be resumed for a settlement by order of the Waitangi Tribunal. Any acquisition of private non-memorialised land for a Treaty settlement has always been on a willing seller basis.

**22 Dec, Hansard Question Supplement Vol 39, p111**  
**Written Question 630**

GEORGINA TE HEUHEU to the Minister of Maori Affairs: Does the Government intend to review the resourcing of the Waitangi Tribunal; if so, when will this review take place?

ANSWER :

Hon DOVER SAMUELS (Minister of Maori Affairs) replied: This Government will stand by its pledge to ensure that the Waitangi Tribunal is adequately resourced. However, we have yet to make specific decisions over the nature and timing of the process to fulfil this pledge.

**22 Dec, Hansard Question Supplement Vol 39, p112**  
**Written Question 631**

GEORGINA TE HEUHEU to the Minister of Maori Affairs: Does the Government intend to review the resourcing of the Waitangi Tribunal; if so, who will conduct the review?

ANSWER :

Hon DOVER SAMUELS (Minister of Maori Affairs) replied: This Government will stand by its pledge to ensure that the Waitangi Tribunal is adequately resourced. However, we have yet to make specific decisions over the nature and timing of the process to fulfil this pledge.

**22 Dec, Hansard Question Supplement Vol 39, p112**  
**Written Question 632**

GEORGINA TE HEUHEU to the Minister of Maori Affairs: How

does the Government intend to improve current provisions relating to funding and resourcing Waitangi Tribunal claim preparation by claimants?

ANSWER :

Hon DOVER SAMUELS (Minister of Maori Affairs) replied: This Government will stand by its pledge to ensure that the Waitangi Tribunal is adequately resourced. However, we have yet to make specific decisions over the nature and timing of the process to fulfil this pledge. I am aware that a part of the Waitangi Tribunal's research programme involves assisting claimants carry out research, but I can make no detailed comment on anticipated future funding levels for specific programmes.

**23 Dec, Hansard Question Supplement Vol 39, p208**  
**Written Question 1237**

GEORGINA TE HEUHEU to the Minister for Courts: How will the Government ensure that the Waitangi Tribunal has the flexibility to determine its work programme and priorities?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: The priorities of the Waitangi Tribunal are set by its Chairperson, and its work programme is established to meet those priorities. The Government responds to the Tribunal's priorities by providing all the necessary administrative support for those priorities through the Department for Courts.

**23 Dec, Hansard Question Supplement Vol 39, p208**  
**Written Question 1238**

GEORGINA TE HEUHEU to the Minister in charge of Treaty of Waitangi Negotiations: Does the Government intend to increase funding available to claimants preparing claims to the Waitangi Tribunal; if so, how much additional funding will be sought?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: The Government will consider advice on funding for agencies involved in the Treaty claims process and decide on those in the overall Government budget for the next financial year. No comment can be made on funding levels for specific programmes at this time.

## **2000**

**8 Feb, Hansard Question Supplement Vol 39, p306**  
**Written Question 1764**

BOB SIMCOCK to the Minister of Social Services and Employment: Has he consulted the Minister in Charge of Treaty of Waitangi Negotiations about the Government's response to the Waitangi Tribunal Waipareira report; if so, what was the nature of the consultation?

ANSWER :

Hon STEVE MAHAREY (Minister of Social Services and Employment) replied: No, I have not consulted the minister regarding the Waipareira report.

**8 Feb, Hansard Question Supplement Vol 39, p307**  
**Written Question 1765**

BOB SIMCOCK to the Minister of Social Services and Employment: Has he consulted the Minister of Maori Affairs about the Government's response to the Waitangi Tribunal Waipareira report; if so, what was the nature of the consultation?

ANSWER :

Hon STEVE MAHAREY (Minister of Social Services and Employment) replied: I am yet to have the opportunity to meet with the minister regarding the Waipareira report.

**8 Feb, Hansard Question Supplement Vol 39, p307**  
**Written Question 1766**

BOB SIMCOCK to the Minister of Social Services and Employment: Has he had any discussions with Te Whanau o Waipareira regarding the Government's response to the Waitangi Tribunal Waipareira report; if so, what was the nature of the discussions?

ANSWER :

Hon STEVE MAHAREY (Minister of Social Services and Employment) replied: No, I have not had discussions with Te Whanau o Waipareira regarding the Waipareira reports.

**9 Feb, Hansard Question Supplement Vol 39, p519**  
**Written Question**

Hon GEORGINA TE HEUHEU to the Minister in charge of Treaty of Waitangi Negotiations: What is her response to the Waitangi Tribunal's Waipareira report, and what action does the Government intend to take?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: The report from the Waitangi Tribunal on the claim of Te Whanau o Waipareira Trust was an important one, examining as it did ground which was new for the Tribunal. The Government will bear in mind the thinking of the Tribunal as we engage with Maori



across all facets of public administration.

**11 Feb, Hansard Question Supplement Vol 39, p511**  
**Written Question 2653**

Hon KEN SHIRLEY to the Minister in charge of Treaty of Waitangi Negotiations: If it were brought to her attention with factual documented evidence that there were discrepancies in the Waitangi Tribunal's Te Roroa Report, Wai 38, would she call for an inquiry?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: There has been a call for a public inquiry into the Waitangi Tribunal's report on the Te Roroa claim. No substantive new evidence has been presented to justify this call. The Tribunal's investigation was rigorous and comprehensive. If discrepancies were to be revealed, I would consider further investigation of the claims as part of direct negotiations between the claimants and the Crown. I do not consider that any further public inquiry is warranted.

**11 Feb, Hansard Question Supplement Vol 39, p519**  
**Written Question 2686**

Hon KEN SHIRLEY to the Minister in charge of Treaty of Waitangi Negotiations: Has she received reports that the Chairman of the Waitangi Tribunal, Judge Eddie Durie, has admitted claimants were altering and removing material unhelpful to their claim, amending conclusions, presenting biased claims by omitting evidence against their arguments and making payments to researchers being conditional on the findings being altered?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: I have received no reports on this matter. The majority of written evidence presented to the Waitangi Tribunal is prepared under the direct supervision of the Waitangi Tribunal itself or the Crown Forestry Rental Trust, rather than under the supervision of claimants. The Tribunal and Trust each have a rigorous quality assurance system in place which involves senior historians reviewing research reports before they are completed.

In a recent article on Ethics and Values, the Chairman of the Waitangi Tribunal outlined a number of ethical issues passed on to him by Waitangi Tribunal researchers. Among these issues was the fact that in some instances claimant groups who have directly commissioned research have required researchers to remove material unhelpful to the claimants' case or amend their conclusions, sometimes as a condition to being paid. The Chairman stressed that if there was overt bias or dishonesty in submissions, the Tribunal must treat them with suspicion or discard them altogether, and that the Tribunal has sought to overcome problems of non-disclosure by compiling document banks and casebooks of all known relevant material before hearings begin.

**2 May, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 584, p18772 Find out exactly where this comes from**

**Answers to Oral Questions –**

NANDOR TANCZOS (Green): Does the Government have any intention to give effect to the Waitangi Tribunal findings, in particular, Wai 776?

Hon. DOVER SAMUELS (Minister of Māori Affairs): The Government's position is that it has rejected the recommendation of the Waitangi Tribunal, but it has certainly taken on board the minority view of the Waitangi Tribunal that the Government should resource, protect, market, and tiaki the Māori language and Māori culture. That is exactly what this Government is trying to do.

**4 May, Hansard Question Supplement Vol 41, p1645  
Written Question 8287**

Hon Dr NICK SMITH to the Minister for Courts: What was the total cost to the Waitangi Tribunal of the hearings and reports on the Mokai School community challenge to the closure of Mokai School?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: The total cost of the hearings and the report was \$65,802.

**4 May, Hansard Question Supplement Vol 41, p1655  
Written Question 8335**

Hon Dr NICK SMITH to the Minister of Justice: What level of funding was provided in legal aid to the previous board of trustees of Mokai School for Waitangi Tribunal challenge of the decision to close the school?

ANSWER :

Hon PHIL GOFF (Minister of Justice) replied: The Legal Services Board has statutory responsibility for the administration of legal aid. Decisions on the grant of legal aid are made independently of the Minister of Justice. \$66,768.54 has been billed to the Legal Services Board in respect of the Mokai School's board of trustees' claim before the Waitangi Tribunal.

**4 May, Hansard Question Supplement Vol 41, p1655  
Written Question 8337**

Hon Dr NICK SMITH to the Minister of Education: What was the cost to the Ministry of Education of defending the Waitangi Tribunal challenge of the decision to close Mokai School?

ANSWER :

Hon TREVOR MALLARD (Minister of Education) replied: As much of the research for the legal challenges in the Waitangi Tribunal and the High Court (including defending the interim hearing in the High Court

to prevent the closure of Mokai School) related to the overall case it is not possible to separate out the cost of defending the Waitangi Tribunal challenge. The legal and associated costs to defend the decision to close Mokai School, between 25 August 1999 and 26 April 2000, was \$178,805.47.

**11 May, Hansard Question Supplement Vol 42, p1776**  
**Written Question 8922**

Hon RICHARD PREBBLE to the Minister of Maori Affairs: What is his response to the claim to the Waitangi Tribunal for compensation from the Government for allegedly encouraging Maoris to smoke?

ANSWER :

Hon DOVER SAMUELS (Minister of Maori Affairs) replied: I believe it inappropriate of me to respond to your question in light of the current claim before the Waitangi Tribunal.

**24 May, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 584, pp2512-2526**  
**Aotearoa New Zealand Day Bill** (First Reading)

*Peter Dunne* introduces Private Member's Bill. Bill repeals Waitangi Day Act and renames 6 Feb "Aotearoa New Zealand Day".

*Marie Hasler* in support of Bill –

I do not know whether Waitangi Day, although it is a day that is of critical interest to me personally, exacerbates the that division or works positively to heal it. My perception is that the wider public of New Zealand is still slow to accept the thoughts and findings of the Waitangi Tribunal that the word Waitangi is associated with.

**6 Jul, Hansard Question Supplement Vol 43, p2616**  
**Written Question 13094**

Hon ROGER SOWRY to the Minister for Courts: Can he advise what has been the turnover of staff at the Waitangi Tribunal Office in the last 6 months, and how does this compare with staff turnover for the previous 6 months?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Like other courts and Tribunals, the Waitangi Tribunal does not employ staff. The Waitangi Tribunal is supported administratively by the Department for Courts. In the six month period to 30 June 2000, the gross annualised turnover of Department for Courts' staff employed in the Department's Waitangi Tribunal unit was 24%. In the period to 21 December 1999 the gross annualised turnover was 12%. The gross turnover for the year to 30 June 2000 is 18%. All figures include redundancies and fixed term contract terminations. It is noted that these statistics are included in my reply to question No 12178.

**6 Jul, Hansard Question Supplement Vol 43, p2616**  
**Written Question 13095**

Hon ROGER SOWRY to the Minister for Courts: Can he advise whether there has been a particular problem in retaining policy advisers or analysts at the Waitangi Tribunal Office; if so, why?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Like other courts and Tribunals, the Waitangi Tribunal does not employ staff. The Waitangi Tribunal is supported administratively by the Department for Courts which does not employ any policy advisers or analysts in its Waitangi Tribunal unit.

**6 Jul, Hansard Question Supplement Vol 43, p2617**  
**Written Question 13096**

Hon ROGER SOWRY to the Minister for Courts: How many staff have resigned from the Waitangi Tribunal Office in the last 6 months, and what have been the principal reasons identified by those staff resigning from the Office?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Like other courts and Tribunals, the Waitangi Tribunal does not employ staff. The Waitangi Tribunal is supported administratively by the Department for Courts. In the last six months six staff have resigned from the Department for Courts' Waitangi Tribunal unit. The principal reasons given for their resignations were to take up other employment, to travel overseas, or family reasons. It is noted that these statistics are included in my reply to question No 12180.

**6 Jul, Hansard Question Supplement Vol 43, p2617**  
**Written Question 13097**

Hon ROGER SOWRY to the Minister for Courts: What are the current staff levels at the Waitangi Tribunal Office?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Like other courts and Tribunals, the Waitangi Tribunal does not employ staff. The Waitangi Tribunal is supported administratively by the Department for Courts. As at 30 June 2000 there were 50 people employed in the Department for Courts' Waitangi Tribunal unit. It is noted that these statistics are included in my reply to question No 12181.

**6 Jul, Hansard Question Supplement Vol 43, p2617**  
**Written Question 13098**

Hon ROGER SOWRY to the Minister for Courts: How many policy advisers and policy analysts are employed at the Waitangi Tribunal

Office, and what has been the average length of time they have been employed there?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Like other courts and Tribunals, the Waitangi Tribunal does not employ staff. The Waitangi Tribunal is supported administratively by the Department for Courts which does not employ any policy advisers or analysts in its Waitangi Tribunal unit.

**6 Jul, Hansard Question Supplement Vol 43, p2617**  
**Written Question 13099**

Hon ROGER SOWRY to the Minister for Courts: How many policy advisers and policy analysts were employed at the Waitangi Tribunal Office as at 30 June 1999, and what was the average length of time they were employed by the Office?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Like other courts and Tribunals, the Waitangi Tribunal does not employ staff. The Waitangi Tribunal is supported administratively by the Department for Courts which did not employ any policy advisers or analysts in its Waitangi Tribunal unit as at 30 June 1999.

**17 Jul, Hansard Question Supplement Vol 43, p2754**  
**Written Question 13783**

Hon PETER DUNNE to the Minister for Courts: Are any staff of the Waitangi Tribunal paid to commute each week to work; if so, how many staff, and what is the total annual cost of the commuting and accommodation charges?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Like other courts and Tribunals, the Waitangi Tribunal does not employ staff. The Waitangi Tribunal is supported administratively by the Department for Courts. No staff employed in Wellington in the Department for Courts' Waitangi Tribunal unit are paid to commute from other parts of New Zealand. It is noted that this statistic is included in my reply to question No 12071.

**25 Jul, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 585, p3584**  
**Answers to Oral Questions – Treaty of Waitangi – Agreements**

Treaty of Waitangi---Agreements

9. Hon. GEORGINA TE HEUHEU (NZ National) to the Minister in charge of Treaty of Waitangi Negotiations: Is there any fiscal limit to the amount the Crown will pay to settle all outstanding Treaty of Waitangi settlements under her new policy announced last week?

Hon. PAUL SWAIN (Minister of Commerce), on behalf of the Minister

in charge of Treaty of Waitangi Negotiations: As the Minister has recently announced, this Government has moved entirely away from the fiscal envelope concept of the previous Government and claims will be settled using a principled approach on a case by case basis within the fiscal limits of the Government's ability to pay. The Government has allocated \$400 million to treaty settlements up to the year 2003-04.

Hon. Georgina te Heuheu: How will the public education programme she intends to launch to educate New Zealanders about her new policy explain that the sky is the limit in meeting claims in the future?

Hon. PAUL SWAIN: As part of the education campaign there definitely will be no measure that says that this Government has a "sky is the limit" approach. There is no open chequebook here. The treaty settlements process under this Government will be a managed, fair, and fiscally responsible approach based on six key principles. Each case will be determined on its merits.

Mita Ririnui: What is the Government's approach to the settlement of historical grievances?

Hon. PAUL SWAIN: This Government recognises that it needs to be flexible regarding these issues and that different approaches will be needed for different claimant groups. This Government has adopted a principles-based approach. The key principles, which include just redress and restoration of relationships, are intended to ensure that settlements are fair, durable, final, and occur in a timely manner.

Hon. Richard Prebble: Is the reason the Government recently announced that "the Labour-Alliance Government has now moved entirely away from the fiscal envelope concept" because fair, full, and final settlements are now impossible given that the Government also announced that the future role and focus of the tribunal is "both historical and contemporary issues", which is an invitation for claimants to dream up new claims like the radio-wave claim, so that there will be no limit to the amounts of money the taxpayer will have to pay in the future?

Hon. PAUL SWAIN: The answer is no, and if the ACT party spent more time trying to close the gaps than opening them, the country would be a better place.

Hon. Georgina te Heuheu: What quid pro quo will the Minister be seeking from Māori in return for her decision to expand the fiscal parameters of treaty settlements?

Hon. PAUL SWAIN: That is a good question. It needs to be put to the Minister, who, I am sure, will be happy to answer at a future time.

## **15 Aug, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 586, p4761**

### **Answers to Oral Questions – Treaty of Waitangi – Articles**

#### Treaty of Waitangi---Articles

7. Rt Hon. WYATT CREECH (Deputy Leader---NZ National) to the Minister of Māori Affairs: For the purposes of Government policy, how many articles does the Treaty of Waitangi have in both the English and Māori versions of the Treaty of Waitangi?

Hon. PAREKURA HOROMIA (Minister of Māori Affairs): Three in each.

Rt Hon. Wyatt Creech: Will the Minister discuss with his colleagues, the Minister of Health and the Minister for Disability Issues, the discussion document on disability services that states that there are four articles in the treaty: "The New Zealand

Disability Strategy Sector Reference Group has also considered the relevance of Article Four of a Māori version of the treaty. Article Four, the retinga article, refers to the protection of customary Māori practice and protocol."

Hon. PAREKURA HOROMIA: The document has not been released and there is not a fourth article. But can I say that health Ministers in the previous Government utilised the treaty statements to support statements of intent and contracts to providers, and we are continuing to do that.

Mita Ririnui: Are there any differences between the articles in the English and Māori versions of the Treaty of Waitangi?

Hon. PAREKURA HOROMIA: The main difference is that the English version confers sovereignty on the Crown, while the Māori version is interpreted by Māori as conferring a more limited power to make laws to protect Māori interests.

Hon. Richard Prebble: Where does it state in either version of the Treaty of Waitangi that Māori New Zealanders are entitled to a different taxpayer health system from other New Zealanders; and, if the answer is that it is not stated in the treaty, why is the Government adding it to the disability and health legislation?

Hon. PAREKURA HOROMIA: It is quite clear, as previous members understood, that Māori people do die a lot earlier.

Nandor Tanczos: Does the Government recognise the doctrine of contra proferentum under international law, which says that where two versions of a treaty are in disagreement the indigenous language version takes precedence; if not, why not?

Hon. PAREKURA HOROMIA: That is correct. That is what the courts do.

Rt Hon. Wyatt Creech: Will the Minister discuss with his colleagues the Minister of Health and the Minister for Disability Issues the recommendation from the disability strategy sector reference group that they are considering a fourth article, and advise them so they can straighten out and go with the three articles of the treaty, as he has said there are?

Hon. PAREKURA HOROMIA: Unlike the treaty, which is a living document, that document has not yet been delivered. There are on ongoing discussions between Ministers to ensure that it is correct.

Rt Hon. Winston Peters: Would the Minister---

A Government Member: Luigi.

Rt Hon. Winston Peters: Better than "oily", is it not?

Mr SPEAKER: That is one all, and that is where it stops.

Rt Hon. Winston Peters: Would the Minister admit that the interpretation he has given in respect of the Māori version of the treaty results from judicial activism rather than from any fact, or, if that is not the case, who in the British Empire was in partnership with Queen Victoria on 6 February 1840 so that the Māori people could be in partnership the next day, 7 February 1840?

Hon. PAREKURA HOROMIA: I was not around on that supposed day in Waitangi. But can I say quite clearly that it is an accepted principle in international law.

Rt Hon. Wyatt Creech: So that all members can see the document I am referring to, I seek the leave of the House to table it.

Document, by leave, laid on the Table of the House.

**19 Sept, Hansard Question Supplement Vol 44, p3518**  
**Written Question 17134**

Hon Dr NICK SMITH to the Minister of Education: What actions or decisions has he or his Associate Ministers taken in regard to the Waitangi Tribunal report on the closing of Mokai School?

ANSWER :

Hon TREVOR MALLARD (Minister of Education) replied: Actions or decisions in regard to the Waitangi Tribunal report on the closing of Mokai School have not been finalised.

**19 Sept, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 587, p5611**  
**Answers to Oral Questions – Treaty of Waitangi – Legislation**

Treaty of Waitangi---Legislation

9. Hon. TONY RYALL (NZ National---Bay of Plenty) to the Associate Minister of Justice: Does she consider it necessary to settle the question of how the Treaty of Waitangi is dealt with in legislation if constitutional reform is to be advanced?

Hon. MARGARET WILSON (Associate Minister of Justice): A fundamental constitutional reform is not currently on the Government's agenda. If it were, it would, indeed, lead to consideration of the place of the Treaty of Waitangi in our laws.

Hon. Tony Ryall: Given that it is certainly the Prime Minister's view, as stated in the New Zealand Herald, that the Treaty of Waitangi must be dealt with in legislation if constitutional reform is to be advanced, has she had discussions with the Prime Minister about what the nature of that constitutional reform may be?

Hon. MARGARET WILSON: I have not had the benefit of seeing that comment, but I assume what the Prime Minister was saying is that, logically, if constitutional reform was on the agenda, then, of course, we would have to deal with the treaty.

John Tamihere: How many Acts of Parliament at present include references to the Treaty of Waitangi or similar references?

Hon. MARGARET WILSON: I believe there are more than 30 Acts that contain such references. For example, the Crown Minerals Act of 1991 contains a treaty reference, as does the Crown Pastoral Land Act of 1998, the Crown Research Institutes Act of 1992, the Foreshore and Seabed Endowment Revesting Act, the Harbour Boards Dry Land Endowment Revesting Act of 1991, and the Resource Management Act of 1991---all passed by a National-led Government.

Stephen Franks: Given the apparent debate over the meaning of treaty references, how do we ensure that approaching the treaty as a living document does not just mean that the elite in each generation can say that it means what it pays them to mean?

Hon. MARGARET WILSON: I shall endeavour to answer that somewhat academic question. My understanding of the question is that it is asking why treaty clauses are a matter of issue at the moment. The treaty clauses at the moment, as I think has been apparent, are being addressed specifically in the context of social legislation. The view is to see how some meaning to make it a living document, in the member's own words, can be made to live in terms of the obligations under article 3 of the Treaty of Waitangi.



Nandor Tanczos: Does the Minister believe that the Treaty of Waitangi has standing in law other than that conferred by special statutes?

Hon. MARGARET WILSON: No. The Treaty of Waitangi as a document in its own right has never been incorporated into our legal system.

Rt Hon. Winston Peters: Is there a difference between the current Labour Government's policy on the Treaty of Waitangi and that which pertained between 1984 and 1990 when Mr Prebble was a member of it, and is there a difference between those two policies and the policy of the National Party between 1990 and 1999?

Mr SPEAKER: The Minister can respond only in relation to her own party's policy, and then very briefly.

Hon. MARGARET WILSON: There appears to be, of course, no difference at all from 1984 through to the present day in terms of the various approaches to the treaty, if one in fact looks at the expression of those policies in legislation. There may well be, I suppose, an interpretation whereby certainly Labour Governments have seen that they have explicit obligations in that respect. Maybe other Governments have done it through oversight.

Rt Hon. Simon Upton: In view of the Minister's description on Mana News of New Zealand's constitutional arrangements as being of the more authoritarian monarchist type, is her work on the appropriate nature of treaty clauses in legislation proceeding on the basis that such clauses should be consistent with a republican constitution?

Hon. MARGARET WILSON: It is a pity that the honourable member heard only part of the interview. I was in fact responding to a comment about a development within the Canadian constitutional framework. The point I was making was that those developments were consistent with a democracy that comes from the people---a democracy that comes from the bottom up, not from the top down. That is the consistent policy of this Government.

## **20 Sept, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 587, p5681**

### **Answers to Oral Questions – Treaty of Waitangi – Legislation**

Treaty of Waitangi---Legislation

9. JANET MACKEY (NZ Labour---East Coast) to the Associate Minister of Justice: Since 1 January 1991 how many pieces of legislation have been passed that have a Treaty of Waitangi clause?

Hon. PHIL GOFF (Minister of Justice), on behalf of the Associate Minister of Justice: [Interruption] Mr Speaker---

Mr SPEAKER: Some members are starting to become too conscious of the people who are observing them. I would like there to be a little less nonsense. When a question is properly asked, it will be properly answered.

Hon. PHIL GOFF: I understand that there are more than 30 Acts of Parliament that include references to the Treaty of Waitangi, and that at least 12 Acts passed since 1991 have treaty clauses. Most of those Acts were, of course, passed by the previous National Government that included Mrs Shipley, who, for purely political reasons, now appears to disavow what she supported and apparently believed in through 9 years in Government.

Janet Mackey: Can the Minister give any examples of recent Acts of Parliament that contained treaty clauses; and how are those clauses worded?

Hon. PHIL GOFF: The 1996 Hazardous Substances and New Organisms

Act, the 1996 Te Runanga O Ngai Tahu Act, the 1997 Waitutu Block Settlement Act, and the 1998 Crown Pastoral Land Act passed by the former National or National - New Zealand First Governments all contained treaty clauses. Those clauses required the Government to take account of the principles of the treaty or to act in a manner consistent with the principles of the treaty. National members cannot now pretend that they did not consistently and deliberately include such clauses in their own legislation while in Government, or that there is any novelty in the inclusion of such clauses in some legislation by this Government.

Hon. Tony Ryall: Given that those clauses listed by the Minister relate to article 2 rights, and given the Associate Minister's stated preference for article 3 clauses to be included in virtually all legislation, is that the practical expression of her view, expressed in 1997, that: "Parliament can provide the site for the development of a process through which the Māori concept of sovereignty, rangatiratanga, can be given practical expression."?

Hon. PHIL GOFF: It is curious that the member should have quoted article 3 of the treaty, because he would be aware that the Hon. John Luxton, when formerly the Minister of Māori Affairs, said this in the House: "There is a need for the Government to continue down the track that it is following to address seriously these outstanding grievances and to move on to the wider issues under article 3 of the Treaty of Waitangi. That is exactly what this Government---that is, the previous National Government---is doing, and intends to continue to do, despite some of the concerns that have been raised."

Kevin Campbell: Is the Associate Minister aware of recent National Opposition support for legislation that makes reference to the principles of the Treaty of Waitangi?

Hon. PHIL GOFF: Yes, of course I am aware of that. Even under the present Government, National continued to support such references being included in legislation until it felt that it might make political capital out of doing just the opposite. National supported the Energy Efficiency and Conservation Act 2000, which includes the principle that all persons exercising responsibilities, powers, or functions under that Act must take into account the principles of the Treaty of Waitangi. Not only did National members vote for that measure at each stage but they raised no criticism about it at all, until they thought that they might make political capital out of doing exactly the opposite of what they had been doing for 9 years previously, while in Government.

Stephen Franks: What evidence is there to show that these provisions have helped to close the gaps or to improve race relations in New Zealand, and, without such evidence, what would persuade the Minister to extend the provisions?

Hon. PHIL GOFF: It is important that Governments do not just simply include a treaty provision in appropriate legislation but actually act to close the gaps. I am very pleased to receive from that member the support of ACT for the objective of making our society an inclusive, rather than an exclusive, one. That is precisely what reference to the Treaty of Waitangi in legislation is designed to achieve.

Nandor Tanczos: Other than referring to the treaty in specific statutes, what options exist to accord it legal status?

Hon. PHIL GOFF: There is no other option. The only way to give legal status to the treaty is to make reference to it in legislation. The member is quite right in his assumption.

Rt Hon. Winston Peters: Why did the Minister refer to the National - New Zealand First Government's legislation, which was a matter of statutory settlement of a claim, and try to claim that those comments in respect of the Treaty of Waitangi relate to the sociological experiment that he is engaged in at this point in time?

Hon. PHIL GOFF: I remind the member, because he has plainly forgotten, that Tau Henare, Rana Waitai, and various other Māori members of his caucus were utterly in favour of not only that legislation but of going much further. I also remind that member that, despite his claim about apartheid and separatism, the first time that he ran for election as a member of this House, he ran in the Māori electorate of Northern Māori.

Hon. John Luxton: Given that article 3 of the Treaty of Waitangi guarantees citizens equal rights in our society, which most people would agree with, why is the Government now moving to add preferential rights for Māori in legislation?

Hon. PHIL GOFF: Reference to the treaty is, of course, intended to achieve equal, not preferential, rights for Māori. None of the clauses, such as that in the New Zealand Public Health and Disability Bill---or Act as it now is---is designed to give preferential rights, but simply to reflect that in health care, for example, Māori are doing much less well than all other sections of the community. Therefore, it is important to close that gap, rather than allowing it to stay in place. The member should go back to what he said previously as Minister in 1995; it appears to be different from what he is now claiming.

Rt Hon. Winston Peters: I seek leave to table documents in relation to my candidacy in the Northern Māori electorate, and I ask Mr Goff to table documents on his Progressive Youth Movement involvement, as well.

Mr SPEAKER: As the member well knows, he can ask for leave to table his particular documents. He cannot ask for leave for that on behalf of another member.

**20 Sept, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 587, p5684**

**Answers to Oral Questions – Treaty of Waitangi – Legislation**

Yes it's there, look online or you'll have to copy it out – Tony Ryall asking Phil Goff (Associate Minister of Justice)

**20 Sept, Hansard Question Supplement Vol 44, p3555**

**Written Question 17306**

Hon MURRAY McCULLY to the Minister of Māori Affairs: Does the Waitangi Tribunal have any staff on secondment to the office of the Minister in charge of Treaty of Waitangi Negotiations; if so, is the ministry fully reimbursed by Ministerial Services for all salaries paid to seconded staff?

ANSWER :

Rt Hon HELEN CLARK (Prime Minister) replied: See reply to question No 17251.

**21 Sept, Hansard Question Supplement Vol 44, p3557**

**Written Question 17317**

Hon Dr NICK SMITH to the Minister of Education: What actions or decisions has he taken or is intending to take in response to recommendations by the Waitangi Tribunal that Mokai School be re-opened?

ANSWER :

Hon TREVOR MALLARD (Minister of Education) replied: Actions or decisions in regard to the Waitangi Tribunal recommendations that Mokai School be re-opened have not been finalised.

**21 Sept, Hansard Question Supplement Vol 44, p3557**

**Written Question 17318**

Hon Dr NICK SMITH to the Minister of Māori Affairs: What costs have been incurred by Te Puni Kokiri in any huis, meetings or reports in response to the Waitangi Tribunal report (Wai 789) on Mokai School?

ANSWER :

Hon PAREKURA HOROMIA (Minister of Māori Affairs) replied: Te Puni Kokiri has incurred staff related costs associated with officials attending intersectoral meetings between the Crown Law Office, Te Puni Kokiri and the Ministry of Education to discuss the Crown's submissions regarding Wai 789.

**21 Sept, Hansard Question Supplement Vol 44, p3558**

**Written Question 17319**

Hon Dr NICK SMITH to the Minister of Education: What costs have been incurred by the Ministry of Education in any huis, meetings or reports in response to the Waitangi Tribunal report (Wai 789) on Mokai School?

ANSWER :

Hon TREVOR MALLARD (Minister of Education) replied: Costs incurred by the Ministry of Education in huis, meetings or reports in response to the Waitangi Tribunal report (Wai 789) on Mokai School amount to \$7,766.24 inclusive of GST.

**10 Oct, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 588, p5972**

**Motion – Anniversary of Waitangi Tribunal**

MOTION---ANNIVERSARY OF WAITANGI TRIBUNAL

JOE HAWKE (NZ Labour): I move, That the House notes the 25th anniversary of the Waitangi Tribunal, which was established on this day 25 years ago by the Treaty of Waitangi Act.

Motion agreed to.

**18 Oct, Hansard Question Supplement Vol 45, p3865**

**Written Question 18729**

Hon JOHN LUXTON to the Minister in charge of Treaty of Waitangi Negotiations: Were any Waitangi Tribunal Office employees seconded to any Minister's office during August 1999 and August 2000; if so, to which offices, how many, and at what total cost?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: No.

**6 Nov, Hansard Question Supplement Vol 45, p4043**  
**Written Question 19629**

Hon KEN SHIRLEY to the Minister of Finance: Does the Crown Forestry Rental Trust trust deed allow for spending on iwi asset management?

ANSWER :

Hon Dr MICHAEL CULLEN (Minister of Finance) replied: The Crown Forestry Rental Trust Deed provides for the Trust to make the interest, earned from investment of rental proceeds, available to assist Māori in the presentation, presentation and negotiation of claims before the Waitangi Tribunal which involve, or could involve, certain Crown Forest Land. This could lead to the expenditure of Trust funding on operational assets that are used for progressing the claims.

## 2001

**1 Mar, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 590, p8065**  
**Answers to Oral Questions – Treaty of Waitangi – Claims Settlement**

Treaty of Waitangi---Claims Settlements

5. MAHARA OKEROA (NZ Labour---Te Tai Tonga) to the Minister in charge of Treaty of Waitangi Negotiations: What progress has the Government made in the settlement of claims under the Treaty of Waitangi?

Hon. MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations): Progress has been made on the settlement of claims under previous Governments and under this Government. This Government has carried out a comprehensive review of treaty settlement policy, and made clear the principles under which it works. Today I am pleased to say that the first deed of settlement in the Taranaki area, that of Ngāti Ruanui, was initialled. This is the first Taranaki iwi to achieve this stage in the settlement process, and it is to be congratulated.

Mahara Okeroa: What other practical results of the Government's work can be seen by Māori groups with justified claims under the treaty?

Hon. MARGARET WILSON: This Government has signed deeds of settlement and progressed legislation with Pouakani and with Te Uri o Hau. We have also made significant progress towards achieving deeds of settlement with Ngāti Awa and Ngāti Tama. I hope to have initialled deeds of settlements with Ngāti Awa and Ngāti Tama

within a very short time.

Hon. Georgina te Heuheu: Given the Minister's advice last year to the Justice and Law Reform Committee that many more claimant groups were seeking negotiations with this Government, when does the Minister expect that she might bring to this House a settlement negotiated by her Government rather than settlements negotiated by the previous National Government?

Hon. MARGARET WILSON: I do not see this process as one of claiming that a settlement is his or hers; it is an important process that involves us all. Of course, some of those claims were started under the previous Government, and I have acknowledged that on every occasion, because I think there is a bipartisan approach. But, certainly, claims have been started under this Government, and they are being progressed as quickly as possible.

Grant Gillon: What other negotiations are now in progress?

Hon. MARGARET WILSON: We have commenced negotiations with the Muriwhenua iwi, and with Ngā Rauru iwi in South Taranaki, and we are in negotiations and discussions with eight other claimant groups. We have also met with various other claimant groups throughout New Zealand to develop positive, constructive relationships, and discuss the direct process for negotiations.

Hon. Richard Prebble: Can the Minister confirm to the House that the Treaty of Waitangi Tribunal has some 700 claims before it; that this Government has signed, but not settled, just two claims; and that provided that no new claims are filed, at this rate of progress all claims will be finally settled in the year 2702?

Hon. MARGARET WILSON: May I thank the honourable member for his positive approach to this issue. I understand that many of those claims before the tribunal will not result in the claims process that we are going through at the moment. Many of them relate to issues that may fall outside the settlement of claims under the Treaty of Waitangi, which is part of the lands claim process.

**28 Mar, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 591, p8547**

**Answers to Oral Questions – Treaty Claims – Taranaki Leaseholders**

Treaty Claims---Taranaki Leaseholders

3. RODNEY HIDE (ACT NZ) to the Minister of Finance: Is the Government proposing a change to the compensation package for Taranaki leaseholders this week, with very little notice, when the first Tribunal hearings start next Monday; if so, why?

Hon. Dr MICHAEL CULLEN (Minister of Finance): It is because, at the very least, there is considerable doubt over the meaning of the present legislation, and because the tribunal hearings start next Monday.

Rodney Hide: What is his response to the advice of Mr John Shewan, PricewaterhouseCoopers' tax expert, that ``in our view the bill is flawed, and, if enacted, will effectively result in lessees being charged twice for taxation in relation to compensation paid to lessees"; and why will he not, at the very least, send this bill to a select committee so that the views of tax experts like Mr John Shewan can be properly considered?

Hon. Dr MICHAEL CULLEN: I have already talked to Mr Shewan twice since that advice was given to the West Coast Lessees Association. I have also talked once to, I think, the chair of the West Coast Lessees Association. I would be very happy to send the bill to a

select committee, but that does require a deferral of the hearings. The Crown has applied for a deferral, but at this point the West Coast Lessees Association has decided not to join that action. That, of course, creates some degree of uncertainty. I am involved in further discussions, and I am very happy to seek a solution that will enable further consideration to be given to the issue.

Hon. Bill English: What has been the reaction of the Taranaki lessees to the announcement of the legislation?

Hon. Dr MICHAEL CULLEN: From the reports that I have, it is somewhat predictable.

Mahara Okeroa: Why does the Government want to make the compensation payments net of tax?

Hon. Dr MICHAEL CULLEN: The underlying issue here is to ensure equity between the treatment of those who opted for the tribunal route, compared with those who opted for the Calvert committee formula route. It should be noted that Mr Shewan argues that if standard valuation procedure is applied, then in fact the calculation will take account of the tax effect, in any case. But my advice at this point---and I emphasise this---is that that does not appear to be what is likely to happen if the hearings proceed. That is an important point for us to think about.

**6 Mar, Hansard Question Supplement Vol 46, p359**  
**Written Question 1730**

RODNEY HIDE to the Minister in charge of Treaty of Waitangi Negotiations: What does she propose to do to help Mr Frank Ross in light of the report by Judge Joe Williams W/SOE 2/60, dated 12 February 2001?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: As reported by Chief Judge Joe Williams, the memorial on the property owned by Mr Frank Ross could be removed following a settlement of Central Auckland claims, and the removal of memorials generally by settlement legislation. However, the settlement of claims to central Auckland is still some way off, and accordingly there is nothing I can do immediately to help Mr Ross.

**7 Mar, Hansard Question Supplement Vol 46, p383**  
**Written Question 1831**

BRIAN NEESON to the Minister for Courts: How many claims, or notices of intention to claim, have been made by local iwi or hapu to the Waitangi Tribunal on Hobsonville Airbase, and if claims have been made, who are the local iwi or hapu who have made these claims?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: To date, there has been one claim to the Waitangi Tribunal that specifically mentions Hobsonville Airbase. It was lodged by Eriapa C Uruamo of Te Taou Rewiti Charitable Trust. There are a further five claims expressed in general terms but which may affect the Hobsonville Airbase. Of the five general claims registered, iwi or hapu mentioned include Ngati

Whatua, Ngapuhi, Kawerau a Maki, and Te Taou.

**21 Mar, Hansard Question Supplement Vol 46, p526**

**Written Question 2455**

RODNEY HIDE to the Minister of Maori Affairs: Following her reply to question for written answer No 1730 (2001), does she agree with Chief Judge Joe Williams that there appears ``to be an unfortunate gap in the legislation"; if so, what is she doing about it; if not, why not?

ANSWER :

Hon PAREKURA HOROMIA (Minister of Maori Affairs) replied: The original response to question No 1730 was made by my colleague the Honourable Margaret Wilson. However, as the powers of the Waitangi Tribunal are provided for in the Treaty of Waitangi Act 1975, this matter has been passed to me to respond.

Section 8D of the Treaty of Waitangi Act 1975 requires the written agreement of all claimants with notice before the memorial can be removed.

One of the claimants has objected.

The Auckland Central claim has not been heard. Until this is settled the provisions in section 8D continue to apply.

There is no intention to change section 8D in the interim.

**4 Apr, Hansard Question Supplement Vol 47, p785**

**Written Question 3589**

RODNEY HIDE - to the Minister for Courts: - What is the annual cost of the Waitangi Tribunal, broken down by fixed costs, salaries, operating costs, support costs, and any other categories?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: The annual cost of the Waitangi Tribunal is \$5,541,915, made up of the following categories:

Category	Annual Budget \$
Department Overhead Costs .. .. .	375,717
Personnel (Tribunal staff only) .. .. .	2,402,621
Operating costs (excludes personnel and includes staff travel, communications, building costs, motor vehicle (1), office equipment, computers, administration, and library)	1,108,851
Tribunal costs (members fees, travel, accommodation and expenses) .. .. .	926,128
Claim research and professional services (external contracted researchers, legal services (claims) and other costs such as mediators) .. .. .	562,400
Asset costs (includes depreciation and capital charges) ..	166,198
Total .. .. .	5,541,915



**4 Apr, Hansard Question Supplement Vol 47, p786**  
**Written Question 3590**

RODNEY HIDE - to the Minister for Courts: - What is the total value of all claims currently registered with the Waitangi Tribunal?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: The Waitangi Tribunal registers, hears and reports on claims from Maori, to determine whether or not acts or omissions of the Crown are in breach of the principles of the Treaty of Waitangi. Settlements are negotiated separately between the claimants and the Government. Compensation quantum is not usually mentioned in claims registered with the Waitangi Tribunal. No such total value of all claims could reasonably be estimated.

**4 Apr, Hansard Question Supplement Vol 47, p786**  
**Written Question 3591**

RODNEY HIDE - to the Minister for Courts: - What is the total value of all claims heard to date by the Waitangi Tribunal?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: The Waitangi Tribunal hears and reports on claims from Maori, to determine whether or not acts or omissions of the Crown are in breach of the principles of the Treaty of Waitangi. Settlements are negotiated separately between the claimants and the Government. Compensation quantum is not fixed by the Waitangi Tribunal.

**4 Apr, Hansard Question Supplement Vol 47, p786**  
**Written Question 3592**

RODNEY HIDE - to the Minister for Courts: - What was the total number of claims registered each year, to date, with the Waitangi Tribunal?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: The total number of claims registered with the Waitangi Tribunal each year (ending June) to date are:

Year	Claims Registered
2001 (to 31 March) .. .. .	40
2000 .. .. .	67
1999 .. .. .	59
1998 .. .. .	50
1997 .. .. .	81
1996 .. .. .	71
1995 .. .. .	99
1994 .. .. .	69

1993	.. .. .	72
1992	.. .. .	72
1991	.. .. .	67
1990	.. .. .	66
1989	.. .. .	35
1988	.. .. .	5
1987	.. .. .	16
1986	.. .. .	4
1985	.. .. .	12
1984	.. .. .	-
1983	.. .. .	-
1982	.. .. .	1
1981	.. .. .	-
1980	.. .. .	-
1979	.. .. .	2
1978	.. .. .	-
1977	.. .. .	4
1976	.. .. .	-
1975	.. .. .	-
Total	.. .. .	892

**4 Apr, Hansard Question Supplement Vol 47, p787**  
**Written Question 3593**

RODNEY HIDE - to the Minister for Courts: - What was the total value of claims registered each year to date, with the Waitangi Tribunal?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: Claims registered each year with the Waitangi Tribunal have generalised statements of claim which, by and large, do not mention monetary compensation. It is not possible to estimate the value of claims lodged with the Waitangi Tribunal.

**4 Apr, Hansard Question Supplement Vol 47, p787**  
**Written Question 3594**

RODNEY HIDE - to the Minister for Courts: - What is the number of Treaty of Waitangi claims which have been heard to date by the Waitangi Tribunal?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: The total number of claims heard to date by the Tribunal is 145.

**4 Apr, Hansard Question Supplement Vol 47, p787**  
**Written Question 3595**

RODNEY HIDE - to the Minister for Courts: - What is the number of decisions released to date by the Waitangi Tribunal, broken down by outcome of decision?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: The Waitangi Tribunal, unlike a Court, generally makes a series of findings as to whether a claim or claims are well-founded or not. The Tribunal will usually make a recommendation to the Government on how any prejudice may be removed. The Government has not always accepted all of the recommendations of each of the Tribunals that have reported. The following table briefly summarises the main printed reports issued by the Tribunal and the outcomes (there are an additional 29 unpublished reports which are shorter and are not listed here):

Claim	Year	Report	Outcome
Wai 1	1978	JP Hawke and others of Ngati Whatua	Referred to an alternative process
Wai 2	1978	Waiau Pa Power Station	Proposal withdrawn
Wai 4	1984	Kaituna River	Proposal to discharge sewage withdrawn
Wai 6	1983	Motunui-Waitara	Proposal changed as a result of the report
Wai 8	1985	Manukau	Report recommendations largely acted on
Wai 9	1987	Orakei	Settled
Wai 10	1987	Waiheke Island	Settled
Wai 11	1986	Te Reo Maori	Settled
Wai 17	1988	Mangonui Sewerage	Not well founded
Wai 22	1988	Muriwhenua Fishing	Settled
Wai 26, 150	1990	Allocation of Radio Frequencies	Partially addressed
Wai 27	1991	Ngai Tahu Vols I, II and III	Settled
Wai 27	1992	Ngai Tahu Sea Fisheries	Settled
Wai 27	1995	Ngai Tahu Ancillary Claims	Settled
Wai 32	1990	Ngati Rangiteaorere	Settled
Wai 33	1993	Pouakani	Settled
Wai 38	1992	Te Roroa	In negotiation
Wai 45	1997	Muriwhenua Land	In negotiation
Wai 46	1999	Ngati Awa Raupatu	Heads of Agreement
Wai 55	1995	Te Whanganui-a-Orotu	In negotiation
Wai 55	1995	Te Whanganui-a-Orotu Remedies	In negotiation
Wai 84	1995	Turangi Township	Settled
Wai 84	1995	Turangi Township Remedies	Settled
Wai 119	1992	Mohaka River	Not addressed
Wai 143	1995	Taranaki: Kaupapa Tuatahi	6 out of 8 claimant groups in negotiation
Wai 153	1993	Te Arawa Representative Geothermal Resource Claims (preliminary report)	Not yet addressed
Wai 167	1999	Whanganui River	Not yet addressed
Wai 212	1993	Te Ika Whenua---Energy Assets	Not accepted
Wai 212	1998	Te Ika Whenua Rivers	Not yet addressed
Wai 304	1993	Ngawha Geothermal Resource	Not yet addressed
Wai 307	1992	Fisheries Settlement	Settled
Wai 315	1994	Te Maunga Railways Land	Settled
Wai 350	1993	Maori Development Corporation	Settled
Wai 413	1994	Maori Electoral Option	Acted on

Wai 414	1998	Te Whanau o Waipareira	Settled
Wai 449	1995	Kiwifruit Marketing	The Waitangi Tribunal did not uphold the claimants case
Wai 776	1999	Radio Spectrum Management and Development (final report)	Not accepted
Wai 789	2000	Mokai School	Partial adoption---in progress
Wai 142,	2000	Pakakohi and Tangahoe Settlement	In progress
758			
Wai 788,	2001	Ngati Maniapoto/Ngati Tama Settlement cross claim	In progress.
800			

**4 Apr, Hansard Question Supplement Vol 47, p788**  
**Written Question 3596**

RODNEY HIDE - to the Minister for Courts: - What is the total value of claims upheld in decisions to date by the Waitangi Tribunal?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: Not all claims heard by the Waitangi Tribunal have been settled in negotiation. At present those claims that have been settled, which have first been heard by the Tribunal, have been settled for a total of \$363,326,682.

**4 Apr, Hansard Question Supplement Vol 47, p788**  
**Written Question 3597**

RODNEY HIDE - to the Minister for Courts: - What is the total value of claims dismissed in decisions to date by the Waitangi Tribunal?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: For claims that are not well-founded or were found to be frivolous and vexatious the question of the value of the claim would not have arisen and cannot be reasonably estimated.

**4 Apr, Hansard Question Supplement Vol 47, p788**  
**Written Question 3598**

RODNEY HIDE - to the Minister for Courts: - What has been the number of decisions released by the Waitangi Tribunal, year by year, since 1990?

ANSWER :

Hon MATT ROBSON - (Minister for Courts) replied: The total number of reports released by the Waitangi Tribunal, year by year, since 1990, together with the number of claims dealt with are:

Number of  
Claims

Year	Reports	Involved
1990	8	9
1991	5	5
1992	10	11
1993	10	12
1994	3	3
1995	6	23
1996	1	31
1997	1	22
1998	3	3
1999	5	5
2000	3	5
Total	54	129

**13 Jun, Hansard Question Supplement Vol 48, p1611**  
**Written Question 7316**

DONNA AWATERE HUATA to the Associate Minister of Education (Tertiary Education): What consideration, if any, has been given to strategies to limit capital funding for three Wananga, supported by Waitangi Tribunal reports, since April 2000, and what decisions, if any, have been made in relation to this matter?

ANSWER :

Hon STEVE MAHAREY (Associate Minister of Education (Tertiary Education)) replied: I am not aware of any strategies to limit capital funding for the three Wananga. The Government has accepted the findings of the Waitangi Tribunal in relation to the Wananga capital funding claim and is moving to implement the recommendations of the Waitangi Tribunal. Recommendations (a) and (c) of the Waitangi Tribunal recommendations have been settled and the Ministry of Education is currently discussing the settlement of recommendation (b) of the Waitangi Tribunal's report with representatives from the three wananga.

**2 Jul, Hansard Question Supplement Vol 48, p1774**  
**Written Question 8007**

PETER BROWN to the Minister in charge of Treaty of Waitangi Negotiations: Do rockhounds have access to goodlitite, kyanite and obsidian on land awarded to M~aori under Waitangi Tribunal claims processes?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: The access provisions of the Crown Minerals Act 1991 continue to apply to any land transferred to claimants as part of a Treaty settlement. I understand that these would require Rockhounds to obtain permission for access from the new landowners in the same way as they need to obtain permission from the Crown when it was the landowner.

**2 Jul, Hansard Question Supplement Vol 48, p1774**  
**Written Question 8008**

PETER BROWN to the Minister for Courts: Do outside parties have the ability to make submissions to the Waitangi Tribunal if they are concerned about a particular claim; if so, how do individuals go about raising their concerns?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: Anyone with an interest in an inquiry apart from an interest in common with the public (the interest already represented by the Crown) or anyone who may be adversely affected by any evidence, may, with the leave of the presiding officer, appear and be heard. Third parties with such an interest in a particular claim may contact the Registrar of the Waitangi Tribunal to indicate their wish to be heard.

**31 Jul, Hansard Question Supplement Vol 49, p2175**  
**Written Question 9873**

Dr MURIEL NEWMAN to the Minister in charge of Treaty of Waitangi Negotiations: How many claims recommended for settlement by the Waitangi Tribunal are awaiting further action, listed year by year since the first claim was referred to the Office?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: In my response to your question No 9876, I have explained in detail why it is that the Crown does not always accept all recommendations of the Waitangi Tribunal. There are over 800 unsettled claims lodged with the Tribunal. A schedule of when these claims were lodged and which claims have been reported on is available from the Tribunal. However, as I have noted in my reply to your question No 9874, any individual Maori may lodge a claim, but the fact that a claim is lodged does not necessarily mean that it will be accepted by the Crown. The Crown does not seek to negotiate with individual claimants but, rather, with large natural groups such as iwi.

**31 Jul, Hansard Question Supplement Vol 49, p2175**  
**Written Question 9874**

Dr MURIEL NEWMAN to the Minister in charge of Treaty of Waitangi Negotiations: What is the length of time that claims have been awaiting further action by the Office of Treaty Settlements?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: The length of time claims have been waiting for action by the Office of Treaty Settlements varies considerably.

Any Maori individual can lodge a claim with the Waitangi Tribunal and there are now over 800 unsettled claims lodged, some of which

were lodged up to 15 years ago and some of which were lodged in the last few weeks. Some claims have been the subject of reports by the Waitangi Tribunal, while many others are waiting to be heard.

It is important to note that the Crown does not seek to negotiate settlements with individual claimants, but with large natural groupings such as iwi. This means that when a settlement is reached, 20 or 30 individual claims will also be settled.

The Office of Treaty Settlements is responsible for negotiating the settlement of well founded historical claims, that is, claims that relate to Crown acts or omissions that were in breach of the Treaty prior to 21 September 1992.

Many claims lodged with the Waitangi Tribunal are contemporary claims, which relate to alleged Crown acts or omissions after 1992. These are the responsibility of the relevant government department. Many are also cross-claims, which are claims from different groups and individuals to the same area of land.

**31 Jul, Hansard Question Supplement Vol 49, p2176**  
**Written Question 9876**

Dr MURIEL NEWMAN to the Minister in charge of Treaty of Waitangi Negotiations: Once the Waitangi Tribunal recommend that a Treaty claim be settled, what is the process by which settlements occur, and what, precisely, is the role of the Office of Treaty Settlements?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: It is important to note that the Crown does not necessarily act on all recommendations of the Waitangi Tribunal, and the Tribunal only has the power to make binding recommendations in limited circumstances, involving, for example, memorialised State-owned Enterprise, and Crown forest land.

Historians from the Office of Treaty Settlements and from the Crown Law Office review Tribunal reports involving historical (pre-1992) claims on behalf of the Crown. The Treaty settlement negotiations process is that described in my answer to your **Parliamentary** question No 9880.

The role of the Office of Treaty Settlements in the negotiations process is to:

- o provide policy advice to the government on generic Treaty settlement issues and on individual claims;
- o negotiate settlements of historical (pre-1992) claims directly with claimant groups, under the guidance and direction of Cabinet;
- o co-ordinate the Crown team of government departments and Crown entities that are involved in the direct negotiation and settlement process;
- o oversee the implementation of settlements
- o acquire, manage, transfer and dispose of Crown owned land for Treaty settlement purposes.

**31 Jul, Hansard Question Supplement Vol 49, p2177**  
**Written Question 9880**

Dr MURIEL NEWMAN to the Minister in charge of Treaty of Waitangi Negotiations: What is the precise process for negotiating a settlement with a claimant?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: Each Treaty settlement negotiation is different because each claimant group is different. However, as a general rule, negotiations usually have the following four stages:

- o Preparing the claim for negotiation. The Crown needs to be satisfied that there is a well founded Treaty breach. The claimant group may first seek to have their claim heard by the Waitangi Tribunal, or they may carry out their own research and approach the Crown directly. The claimant group also needs to satisfy the Crown's large natural grouping preference before negotiations can begin; and achieve a mandate, which is assessed by the Crown.
- o Pre-negotiations. This involves agreeing Terms of Negotiations setting out the basis on which negotiations will take place, and relevant ministers approving funding available to claimants as a contribution to the costs of negotiations. Also during this stage the Crown and claimant negotiators discuss the interests each party wishes to have addressed through the settlement.
- o Negotiations. This involves formal negotiations between the claimant negotiators and the Crown over the proposed redress package, which may include a Crown Acknowledgement and Apology, cultural redress, and financial and commercial redress. A Crown offer which includes the total monetary value of the redress to be provided by the Crown is made, and a Heads of Agreement (which is an Agreement in Principle) may be agreed. A Deed of Settlement is then prepared which is the detailed settlement and reflects the agreements reached in the Heads of Agreement. A Deed of Settlement is then approved and initialled by the claimant negotiators and the Crown.
- o Ratification and implementation. This involves consultation by the claimant negotiators with the wider claimant community on the initialed Deed of Settlement; the Deed is to put the claimant community for ratification usually involving postal ballot; which there is a sufficient majority approval of the Deed by the wider claimant group, the Deed becomes binding and conditional only on the passing of the settlement legislation; an accountable, representative and transparent governance entity to receive the settlement redress must be established and ratified by the claimant community; the Crown introduces legislation; post legislation, the Crown implements the Deed.

**11 Sept, Hansard Question Supplement Vol 49, p2784**  
**Written Question 12844**

Hon RICHARD PREBBLE to the Minister in charge of Treaty of Waitangi Negotiations: Has she seen the newspaper report in the New Zealand Herald on 8 September 2001, concerning former Labour MP Alan Wallbank, where it is claimed that his horses have been killed because local Māori claim his farm is Māori land; if so, what action, if any, is she taking to resolve



the land claim on the farm?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: I met with Mr Wallbank on 10 September 2001 to discuss the issue. It is uncertain at this time whether claimant groups in the area had anything to do with the incident. The Waitangi Tribunal has heard the land claims concerned and I look forward to reading the report, which is expected by next year.

**15 Nov, Hansard Question Supplement Vol 50, p3570**  
**Written Question 16257**

JEANETTE FITZSIMONS to the Minister of Māori Affairs: In light of the Royal Commission on Genetic Modification recommendation 10.6 that "all parties concerned work to resolve the WAI 262 and WAI 740 claims currently before the Waitangi Tribunal as soon as possible", what is the Government doing to expedite the process?

ANSWER :

Hon PAREKURA HOROMIA (Minister of Māori Affairs) replied: The Government wishes to see the Wai 262 claim resolved as soon as possible, but notes that the completion of the Waitangi Tribunal's inquiry is constrained by both the complex nature of the claim, and the Tribunal process itself. The allocation of hearing time to particular Treaty claims is a judicial decision of the Chairperson of the Waitangi Tribunal at the beginning of every financial year. The Waitangi Tribunal has recently issued a timetable that indicates that an interim report on key issues raised in the Wai 262 claim will be completed by October 2002. The Crown has indicated its support for the Tribunal's process and is currently working to respond to the statements of claim and thereby assist the Tribunal's formulation of the key issues.

The Crown has not been asked to respond to the Wai 740 claim, which is still being researched.

## 2002

**13 Feb, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 598, p14299**  
**Answers to Oral Questions – Treaty of Waitangi – Principles**

Treaty of Waitangi---Principles

4. Rt Hon. WINSTON PETERS (Leader---NZ First) to the Prime Minister: Will the Government publish what it understands to be the principles of the Treaty of Waitangi; if so, when?

Rt Hon. HELEN CLARK (Prime Minister): Interpretation of the treaty's principles has preoccupied the courts, the legal profession, Māoridom, and the Government for many years. This process is, clearly, an ongoing matter.

Rt Hon. Winston Peters: Is the Prime Minister saying that she and her Government have some idea of what these principles are, thereby justifying the hundreds of millions of dollars of current expenditure

in obedience to those principles, or does she accept the view of the Dean of Law at Victoria University, Matthew Palmer, son of the architect of the Treaty of Waitangi legislation, that generic reference to the legislation must be accompanied by specific visions spelling out what it means?

Rt Hon. HELEN CLARK: For many years Governments have attempted to give effect to the principles of the treaty---Governments, I might add, of which the member was also a member.

John Tamihere: Has the Government developed any principles related to the treaty?

Rt Hon. HELEN CLARK: The Government, like previous Governments, has developed principles underlying the treaty settlement process. Those principles were published in a press statement from the Minister in charge of Treaty of Waitangi Negotiations, on 20 July 2000, and are also available on the web to the "e-literate" ACT members.

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. That is a classic example of how questions are answered in this Parliament. I asked the Prime Minister whether there would be a publication in the Government's name, not in a Minister's name, on the principles of the Treaty of Waitangi. In answer to Mr Tamihere she suggested that they can be found, but she would not answer my question. Perhaps the Prime Minister could address this matter with somewhat greater urgency, given that we have spent billions of dollars on it.

Rt Hon. HELEN CLARK: Speaking to the point of order, I want to say that, with respect, the member has not listened to the answers. I said that the Government had published principles underlying treaty settlements. It has not published an interpretation of the principles of the treaty.

Stephen Franks: Why has the Prime Minister allowed her officials and Ministers to refer continually to partnership, when neither that word nor the concept appears anywhere in the treaty or in the official Labour Government statement of the principles, and when the concept, in her Government's hands, is just a spurious justification for cronyism and racism?

Rt Hon. HELEN CLARK: I am not aware of an official Government statement on the principles of the treaty. I am aware of the principles for settling treaty claims. The member is a lawyer and should know the difference.

Stephen Franks: I seek leave to table The Crown and the Treaty of Waitangi: A Short Statement of the Principles on Which the Crown Proposes to Act, issued by the Labour Government.

Document, by leave, laid on the Table of the House.

Hon. Georgina te Heuheu: Does the Prime Minister understand the difference between the principles of the treaty and the principles for settlement outlined by the Minister in charge of Treaty of Waitangi Negotiations last year; if not, then how are we to know and judge that this Government is making any progress on these matters, at all?

Rt Hon. HELEN CLARK: I thank the member for again drawing attention to the fact that the principles of the treaty and the principles that underpin treaty settlements are two different matters.

Nandor Tanczos: Does the Prime Minister accept as a principle based on international law, and on the fact that Governor Hobson and the vast majority of rangatira signed the Māori language version,

that it is the Māori language text of Te Tiriti o Waitangi that has precedence?

Rt Hon. HELEN CLARK: Obviously, there was one text in Māori and one in English. I am not going to stand here and say that one has priority over another. Over many years Governments have attempted in good faith to act in line with the treaty as they interpreted it at the time.

Rt Hon. Winston Peters: I seek to table the fourth report of the Tertiary Education Advisory Commission, and in particular refer to this statement: "Allows for Maori autonomy and authority over Maori tertiary education." That is one of the new principles of this Government.

Document, by leave, laid on the Table of the House.

**14 Feb, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 598, p14377**

**Answers to Oral Questions – Treaty of Waitangi – Settlement Process**

Treaty of Waitangi--Settlement Process

3. Rt Hon. WINSTON PETERS (Leader--NZ First) to the Prime Minister: Are the principles for underlining the treaty settlement process published in a press statement from the Minister in charge of Treaty of Waitangi Negotiations on 20 July 2000 what the Government understands to be the principles of the Treaty of Waitangi, and if not, why not?

Hon. LIANNE DALZIEL (Minister for Accident Insurance), on behalf of the Prime Minister: No, because they are the principles for the practical process of settling historical treaty claims.

Rt Hon. Winston Peters: Why, then, would the Prime Minister not answer my question yesterday, when I asked whether the Government intended to announce the principles underlying the Treaty of Waitangi as it understood them--when, where, and if not, why not--instead of duck-shoving around for 24 hours and now saying today that the answer she gave John Tamihere in the House is not the same as that in respect of the principles that the Government is following in terms of the Treaty of Waitangi itself?

Hon. LIANNE DALZIEL: There is no conflict between the two answers. The member has confused references to the principles of the Treaty of Waitangi with the principles adopted to guide the Government in negotiating settlements of historical claims under the Treaty of Waitangi.

Mahara Okeroa: Will the Government be publishing the principles of the Treaty of Waitangi?

Hon. LIANNE DALZIEL: No.

Hon. Georgina te Heuheu: What does the Government understand to be the principles of the Treaty of Waitangi?

Hon. LIANNE DALZIEL: As the Prime Minister said yesterday, the interpretation of the treaty's principles has preoccupied the courts, the legal profession, Māoridom, and the Government for many years. That process is an ongoing matter.

Stephen Franks: As the Hon. Margaret Wilson and the Hon. Parekura Horomia also announced on 20 July 2000 there will be a review of the Treaty of Waitangi Act and forthcoming principles for dealing with contemporary claims like that to the radio airwaves, can the Prime Minister tell New Zealanders when we will have the benefit of those vital pieces of jurisprudence?

Hon. LIANNE DALZIEL: No. I do not have that information with me.

However, I make the point that when we are talking about principles, we are talking about the way that the Government will act when dealing with issues that arise from the Treaty of Waitangi. That was the statement that that member tabled in the House yesterday, signed by David Lange when he was the Prime Minister.

Ian Ewen-Street: What steps has the Government taken to inform and educate adult New Zealanders on the role of Te Tiriti o Waitangi as a living constitutional document on which our nation is founded?

Hon. LIANNE DALZIEL: Work is being undertaken at the moment to ensure that people are well informed about the issues in respect of the Treaty of Waitangi.

Rt Hon. Winston Peters: Is the Prime Minister expecting us to believe that Acts specifying references to the Treaty of Waitangi--such as the Conservation Act, which refers to giving effect to the principles of the Treaty of Waitangi, the Crown Research Institutes Act, which refers to having regard to the principles of the Treaty of Waitangi, the Resource Management Act, which refers to taking account of the principles of the Treaty of Waitangi, and section 181 of the Education Act 1989, which refers to the acknowledgment of the principles of the Treaty of Waitangi--are all so abstruse or complex that we, in New Zealand, cannot understand what those principles are and that the Government has no idea what they are? That leads to the kind of thing that is in the latest Tertiary Education Advisory Commission review, which states that it allows for autonomy and authority over Māori tertiary education--total autonomy by Māori of Māori tertiary education. What are the principles?

Mr SPEAKER: The member has had a very long question. I now want an answer to be given.

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. I agree that it is a long question. But we have come 16 long years, and to hear today that this Government is not prepared to broadcast or produce a set of principles in a billion-dollar industry simply begs greater parliamentary scrutiny.

Mr SPEAKER: The member knows that there are rules about questions and answers. I allowed a very long question. I will now have the answer.

Hon. LIANNE DALZIEL: A number of the pieces of legislation the member has referred to have been in existence for quite some time, and I cannot say that this Government is responsible for them. I can say, as the Prime Minister said yesterday, that over many years successive Governments--including the previous Government, in which that member was the Minister of Māori Affairs--have attempted in good faith to act in line with the treaty.

Hon. Richard Prebble: I raise a point of order, Mr Speaker. When the Rt Hon. Winston Peters was starting his question the Minister of Māori Affairs interjected. I did not stop the proceedings then because I did not want him to go through that question again. There was some absurdity to the interjection, but to suggest that Mr Peters was Māori bashing was completely out of order. The Minister of Māori Affairs should be asked to withdraw and apologise for that remark.

Mr SPEAKER: The remark was out of order. I ask the Minister to withdraw and apologise.

Hon. Parekura Horomia: I wasn't referring to Mr Peters. I withdraw.

Mr SPEAKER: The member will withdraw and apologise.

Hon. Parekura Horomia: I withdraw and apologise. [Interruption]

Mr SPEAKER: The Minister is not helping matters at all with that gesture. I am required to make sure that every member has the right to participate, and they will have that right. The Minister has made what I consider to be an unfortunate gesture that he should not have made. I ask him to stand and apologise for doing so.

Hon. Parekura Horomia: I apologise.

**20 Feb, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 598, p14484**

**Answers to Oral Questions - Treaty of Waitangi – Principles**

Treaty of Waitangi---Principles

1. Rt Hon. WINSTON PETERS (Leader---NZ First) to the Prime Minister: Further to my questions of 13 and 14 February 2002 relating to the principles of the Treaty of Waitangi, will she now advise what the Government understands those principles to be, and if not, will she advise how many governmental and quasi-governmental organisations are having regard to the principles of the Treaty of Waitangi as is required by various enactments?

Hon. MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations), on behalf of the Prime Minister: I presume that the principles the member is referring to are the principles formulated by the fourth Labour Government in 1989 as a guide to the formulation of policy; that policy to be translated into legislation. I am happy to make those principles available to the member if he is not familiar with them. I also note that the Cabinet Office Manual requires Ministers to confirm compliance with the principles, and also that the Legislation Advisory Committee guidelines make reference to the process to be followed when developing legislation that incorporates the principles. Of course, those principles are subject to ongoing discussion between Māori and the Crown, and are subject to interpretation by the courts and the Waitangi Tribunal.

Rt Hon. Winston Peters: How can the Minister possibly give that answer when her colleague Lianne Dalziel, in reply to Mahara Okeroa's question, "Will the Government be publishing the principles of the Treaty of Waitangi?", said "No."; can the Minister tell me how her colleague could give that answer, and explain why, for example, the tertiary review authority is saying that the tino rangatiratanga principle means that Māori will have autonomy over tertiary education? What is the public to understand are the principles of the Treaty of Waitangi that are being followed by this Government?

Hon. MARGARET WILSON: I am happy to table a copy of the principles as they were formulated. As I said, they are a bit long to read out. The purpose of the principles was to follow the terms of the Treaty of Waitangi, and to put those principles into operational form. I do not think that there is any confusion here, except as I followed the debate I thought at one stage there was a confusion between those principles and the principles I announced that would guide this Government's approach to the settlement of claims. There are two sets of principles, because we are trying to achieve two objectives.

Mr SPEAKER: I presume the Minister is seeking to table a document?

Hon. MARGARET WILSON: Yes, I will table that document. It is publicly available.

Mr SPEAKER: Is there any objection to that?

Hon. Richard Prebble: I raise a point of order, Mr Speaker. I guess we can table everything every day, but when the matter came up

last week, Stephen Franks raised that question. I think he got permission to table the document---which might have come as a surprise to the Government. I think we have already done it; that is how they obtained it.

Mr SPEAKER: I thank the member. That obviously saves a little bit of money, which is always welcome to the Parliamentary Service.

Hon. Dover Samuels: How are these principles being applied by the Government of the day?

Hon. MARGARET WILSON: The Government expects all its departments to have an understanding of the principles of the Treaty of Waitangi, and to be kept informed of the emerging discussion on those principles. Some departments have specific statutory responsibilities to give effect to relevant principles when making decisions. Currently, over 30 pieces of legislation refer to the Treaty of Waitangi or its principles. In terms of secondary legislation, there are many more.

Dr Wayne Mapp: Does the Prime Minister now say that the principles enunciated by the previous Labour Government are the principles being applied by this Government, or have they been modified by reference to tino rangatiratanga, with that being the operative principle?

Hon. MARGARET WILSON: The principles formulated in 1989 provide the foundation. As I said, there have been ongoing discussions, which at this stage are directed towards making specific reference in legislation in respect of the implementation of those principles. There is no specific reference to tino rangatiratanga in the terms I think the member means, but we are trying to make the principles live and be real. For example, in terms of governance, how many persons should be represented in decisions that affect them?

Hon. Richard Prebble: Is the Minister prepared to concede that there is a point to the Rt Hon. Winston Peters' statement? The Government has included a reference to the principles of the treaty in 27 different Acts of Parliament. Last week, when the right honourable gentleman asked the Prime Minister what the principles of the treaty were, she told us she did not know. This week, apparently with the help of Stephen Franks from ACT, the Government found them. Surely there is a point to Mr Peters' question: we are putting into law something that no one can actually define.

Hon. MARGARET WILSON: I do not think that there is any confusion. I think the confusion came from not identifying precisely what set of principles were being referred to. Under the previous Government there were over 25 references in legislation to the Treaty of Waitangi. This Government has merely continued the practice at probably not as fast a rate, because we are looking to put in specific provisions.

Nandor Tanczos: Does the Government accept that international legal principles of treaty interpretation indicate that the indigenous language text takes precedence?

Hon. MARGARET WILSON: Yes, in some instances it does.

Rt Hon. Winston Peters: Why would the Attorney-General give that answer today, when last week the Prime Minister gave no such answer to the question: "Will the Government publish what it understands to be the principles of the Treaty of Waitangi; if so, when?", even though it was pointed out to her that Matthew Palmer, the son of the architect of much of the Treaty of Waitangi legislation between 1984 and 1990, last year published a June treatise saying that there needed to be a codification of principles because there were none; what is the position, or is she making it up as she goes along?

Hon. MARGARET WILSON: Answers to questions are normally consistent with the quality of the questions asked. The truth is that---

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. The appropriateness of questions is for you to decide, and no one else. That befuddled Minister has gone on for the last 2 weeks---

Mr SPEAKER: No, no---

Rt Hon. Winston Peters: She has done this frequently.

Mr SPEAKER: Please be seated; the member is out of order.

Rt Hon. Winston Peters: She does not know whether she is Arthur or Martha. I want to know--.

Mr SPEAKER: The member may make a point of order, but he cannot then damage the point of order by making comments like that. I was about to say that to the Minister, and now that the member has raised the point, I would like the Minister to answer the question.

Hon. MARGARET WILSON: I do not see any inconsistency. As I said, the principles are evolving. The reference to Professor Palmer was true and consistent with this Government's development of those principles to try to make sure they are operationalised in terms of legislation. There is no inconsistency there, at all.

Hon. Richard Prebble: I seek leave to table a list showing that 27 different Acts of Parliament refer to the principles of the Treaty of Waitangi.

Document, by leave, laid on the Table of the House.

**21 Feb, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 598, p14567**

**Answers to Oral Questions - Treaty of Waitangi – Principles**

Treaty of Waitangi---Principles

8. Rt Hon. WINSTON PETERS (Leader---NZ First) to the Prime Minister: Further to her answer to yesterday's oral question No 1, is one of the Treaty of Waitangi principles, to be formulated as policy and translated into legislation, that of tino rangatiratanga, as outlined in the November 2001 report of the Tertiary Education Advisory Commission and defined as allowing ``for M~aori self-determination over their possessions; recognises the right of iwi to manage their own affairs; affirms the right to development"; if so, is this principle to be given effect across every sphere of the Government's responsibility?

Hon. MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations), on behalf of the Prime Minister: The report the member refers to is not Government policy. The Government is currently considering its response to the Tertiary Education Advisory Commission's independent report. As I said in my response to Dr Wayne Mapp's supplementary question on this subject yesterday, discussions on the principles of the Treaty of Waitangi are towards making specific reference in legislation to the implementation of the principles. I am not aware of any specific reference to tino rangatiratanga in legislation in the terms described by the honourable member.

Rt Hon. Winston Peters: Could the Minister please explain why such a group would be interpreting that tino rangatiratanga principle as allowing for M~aori autonomy and authority over M~aori tertiary education, having regard to, in particular, the fact that the word ``iwi" does not appear in article 2 of the Treaty of Waitangi; and how can such an interpretation add such a new and huge dimension to the treaty claim principles---would the Minister please explain what is going on in this country on this matter?

Hon. MARGARET WILSON: I cannot speak on behalf of the independent commission. It made those comments in the report, and made them in the context of several groups having the right to be able to participate in decisions that affect them. They were contained in a section that also made reference to academic freedom and provider autonomy.

Mahara Okeroa: What does "tino rangatiratanga" mean?

Hon. MARGARET WILSON: The principle of tino rangatiratanga arises from article 2 of the Treaty of Waitangi, and, as members may be aware, it can be interpreted in many different ways, and has been. The rangatiratanga principle, also referred to as the principle of self-management, was included in the guiding principles formulated by the fourth Labour Government. That principle, however, needs to be interpreted in the context of, and balanced against, the other principles, such as those arising out of article 1 of the treaty relating to governance.

Dr Wayne Mapp: Can the Prime Minister explain the difference between the rangatiratanga principle set out in the 1989 principles, which "guarantees iwi Maori the control and enjoyment of the resources", and the rangatiratanga principle in the November 2001 tertiary commission report, which "allows for Maori self-determination over taonga"?

Hon. MARGARET WILSON: As I said, I cannot speak for what was in the mind of the commission, except according to the words of the independent report. But it seems to me that, essentially, what the principle comes down to in many instances is participation in decisions that affect one. That is sometimes called self-determination. That is what the Government has been trying to do, as I mentioned in my answer to a supplementary question from the member yesterday; it is trying to give practical expression to that. For instance, in the health legislation we made provision for Māori members to participate in board decisions.

Rodney Hide: Does the Prime Minister think it would make for better law if the relevant legislation referred simply to the Treaty of Waitangi, with its three articles and 235-odd words, rather than the principles of the treaty, which are given over to such confusion?

Hon. MARGARET WILSON: That is a point of view.

Rt Hon. Winston Peters: What on earth is this country doing, with hundreds of quasi-governmental groups making all sorts of interpretations, which the Minister, the Prime Minister, and the Government are not prepared to own up to, and how are ordinary New Zealanders to understand where they fit into this long-term policy-making, when the Government has no idea what the principles are?

Hon. MARGARET WILSON: People may have different interpretations as to what the principles mean, particularly tino rangatiratanga. However, when it comes to what goes into legislation or regulation, those are, of course, matters that are considered by the Government. As I said, they are expressed in terms of our trying to make the principles living and real principles, and relevant to both Māori and the Crown.

**28 Mar, Hansard Question Supplement Vol 51, p832**  
**Written Question 3603**

Rt Hon WINSTON PETERS to the Associate Minister for Arts, Culture and Heritage: Is the Māori Heritage Council bound by all Waitangi



Tribunal decisions or considerations; if not, why not?

ANSWER :

Hon JUDITH TIZARD (Associate Minister for Arts, Culture and Heritage) replied: I am advised that there is nothing in the Maori Heritage Council's governing legislation, the Historic Places Act 1993, nor in any other legislation, that requires the Maori Heritage Council to be bound by decisions of the Waitangi Tribunal.

However, the Maori Heritage Council does have discretion to take into account all matters that may be relevant to its deliberations. This may therefore include both matters before, and decisions of, the Waitangi Tribunal.

**28 Mar, Hansard Question Supplement Vol 51, p834**  
**Written Question 3609**

Rt Hon WINSTON PETERS to the Minister for Courts: Is the area of land, known locally in Tauranga as ``Kopu'', the subject of any claim or discussion before the Waitangi Tribunal; if so, by whom, and what are the circumstances and issues involved?

ANSWER :

Hon MATT ROBSON (Minister for Courts) replied: If the area referred to in the question is the area around the hill (maunga) known as ``Kopukairoa'' or ``Old Baldy'', then there are claims registered in the Waitangi Tribunal which are currently before the Tribunal panel hearing the Tauranga moana district inquiry. If this is not the area then the Waitangi Tribunal is not familiar with it.

The claims which specifically mention Kopukairoa include: Wai 162 lodged by Mr William Ohia (deceased) on behalf of the Tahuwhakatiki Whanau Trust and registered on 28 September 1990; and Wai 717, the Nga Potiki Hapu Estate (Tauranga) claim registered by Matire Duncan on 18 May 1998.

The Wai 162 claim seeks the return of Kopukairoa, a maunga presently owned by Telecom Corporation, to members of the iwi, for whom it is of sacred significance. The claim was on behalf of both Ngati Pukenga and Nga Potiki.

The Wai 717 claim by the Nga Potiki hapu (a hapu of Ngaiterangi) is in the name of Tamapahore and his descendants. The members of Nga Potiki seek findings on the original confiscation of the land, the investigation process pursuant to the Tauranga District Lands Act 1867, the individualisation and replacement of customary title with Crown grants, and matters associated with the purchase of the land under the Public Works Act.

These matters have been partially heard by the Waitangi Tribunal in the raupatu (confiscation) section of its Tauranga moana inquiry, and are likely to be fully heard by the Tribunal in the next financial year, after which time those claims will be reported on by the Tribunal.

**17 Apr, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 599, p15544**  
**Answers to Oral Questions - Treaty of Waitangi – Local Government Bill**

Treaty of Waitangi---Local Government Bill

4. Rt Hon. WINSTON PETERS (Leader---NZ First) to the Minister of Local Government: Specifically what principles is she referring to in clause 4 of Part 1 of the Local Government Bill, which requires local authorities, ``To recognise and respect the principles of the Treaty of Waitangi..." and what is the authority for her answer?

Hon. MATT ROBSON (Acting Minister of Local Government): Clause 4 of Part 1 of the Local Government Bill is an acknowledgment by the Crown that the Crown has obligations under the Treaty of Waitangi.

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. That is plainly ridiculous. I have asked him specifically: what are the principles and what is the Minister's authority? That was an attempt to evade totally any answer at all. It is ridiculous, and it demeans this House. I am asking for an answer to the primary question.

Mr SPEAKER: The Minister answered it in the way that he chose to answer it. I will, however, be allowing the member supplementary questions, and he may start.

Rt Hon. Winston Peters: Minister, why cannot you specifically tell me---

Mr SPEAKER: No, why cannot the Minister, specifically---not me.

Rt Hon. Winston Peters: My question to the Minister is: Minister, why cannot you specifically tell me? What is wrong with that?

Mr SPEAKER: Nothing, but the member has---

Rt Hon. Winston Peters: Well, why are you objecting? I will ask the question, you make sure he answers it, and everything will be fine here.

Mr SPEAKER: And I will make sure it does not refer to me.

Rt Hon. Winston Peters: OK. Why will the Minister not specifically answer the question, which is specifically: what principles was she referring to in clause 4 of Part 1 of the Local Government Bill, which requires local authorities: ``To recognise and respect the principles of the Treaty of Waitangi, . . . ", and what is the authority for the answer?

Hon. MATT ROBSON: I know that the member has made most of his career on traffic cases in the Manukau court---

Mr SPEAKER: No. I am not going to ask the Minister to leave, because I want him to come to the question, and answer it properly.

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. That last answer raises an alarming matter. There is no traffic court at Manukau, which shows what a bum lawyer he is---and the Minister for Courts he should not be.

Mr SPEAKER: I think that was tit for tat. I will now ask the Minister to answer the question.

Hon. MATT ROBSON: The point is, for the member's edification, that the issues on the Treaty of Waitangi are set out in this Local Government Bill. They are set out in a number of bills and a number of statements. Eventually, questions in relation to the Treaty of Waitangi are determined by the courts of this country and by the Waitangi Tribunal.

Alec Neill: Has the Minister received any advice that the Waitangi Tribunal and the courts have advised the Crown that it cannot evade its obligations under the treaty by conferring authority on some other body, as to do so would be inconsistent with the Crown's treaty obligations, and is this new clause a cunning attempt to devolve to local government the Crown's responsibilities?

Hon. MATT ROBSON: If it was a cunning attempt, the member is on to it. I would suggest that he put down a question for the Minister,

because I have received no reports.

Georgina Beyer: Why is the Treaty of Waitangi referred to in the Local Government Bill?

Hon. MATT ROBSON: Because this Government, unlike some members, does not want to wind the clock back 20 years to the days of land occupations and conflict between Māori and Pākehā. There are a number of press statements. One I have here is from the honourable member of this Chamber, Mr Winston Peters, and it has the headline: "New Zealand First will oust the treaty". The honourable member may wish to live in the past of racial strife, but this Government does not.

Stephen Franks: Why does the Government wish to leave a decision on the principles---[Interruption]

Mr SPEAKER: I am going to be asking a member to leave if there is any more interjection. I want to hear Mr Franks. He is at the other end of the House, and I expect to be able to hear him.

Rodney Hide: I raise a point of order, Mr Speaker. I think the difficulty is over here, and it happens every time. I do not think you hear it. Members call out, and they put other members off.

Mr SPEAKER: I do not need the member's assistance. I heard comments from two or three parts of the House. I was specifically looking at and listening to Mr Franks, and it was in my range of vision.

Stephen Franks: Why does the Government leave it to the courts and judges, whom people have no opportunity to remove, to decide on principles that they cannot tell this House?

Hon. MATT ROBSON: There is a place for Parliament. There is a place for the courts. The Government makes the legislation, and sets out very clearly what it means by that. Ultimately, the courts make final decisions on interpretation.

Nandor Tanczos: Does the Minister support the obvious implications of the primary question asked by the Rt Hon. Winston Peters, and a number of questions he has already asked in the House, that it is the text of the Treaty of Waitangi that is pre-eminent rather than any principles that the Crown, through courts or Parliament, as one signatory may decide to define?

Hon. MATT ROBSON: No, the Government does not accept the underlying premises of what Mr Peters has asked this House. We find that they are divisive and backward looking.

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. You have allowed, and the Clerk's Office has allowed, a number of questions this year on this issue. The end of the Minister's answer was plainly derogatory. He is further embarrassed by the fact that not once has he given me an answer to my question, but, nevertheless, he said that I am being divisive. I have asked him and his colleagues, the Prime Minister included, what those principles are. It is a simple, straightforward question. We are now on question No. 27, and we are getting no answers.

Mr SPEAKER: The last comment made by the Minister was totally unnecessary. I would now like the Rt Hon. Winston Peters to ask another supplementary question.

Rt Hon. Winston Peters: How on earth does the Minister expect local government and local bodies to interpret the principles of the Treaty of Waitangi when neither he nor any other Cabinet Minister is able to tell us on one day for one question what those principles are?

Hon. MATT ROBSON: I have not noticed that most local governments

have problems with the Treaty of Waitangi. Many work in positive partnerships with Māori. There has been a long tradition of providing principle clauses in legislation that predates this Government, and any Government that that member has been part of. Furthermore the Cabinet Office Manual requires all Governments, whatever their political colours, to have regard to the treaty against the legislation they create. I am glad the honourable member holds the core principles of the treaty in such high regard.

**18 Apr, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 599, p15633**

**Answers to Oral Questions - Treaty of Waitangi – Western Bay of Plenty District Council**

Treaty of Waitangi---Western Bay of Plenty District Council

12. Rt Hon. WINSTON PETERS (Leader---NZ First) to the Minister for the Environment: Given her response to my written question number 3601 (2002) that she considers the Western Bay of Plenty District Council's `` approach to seeking iwi/hapu input when considering resource consent applications is consistent with the duty...to take into account the principles of the Treaty of Waitangi", has her ministry precisely defined these principles; if so, what are they?

Hon. MARIAN HOBBS (Minister for the Environment): The Western Bay of Plenty District Council's duty to take into account the principles of the Treaty of Waitangi arises from the wording in section 8 of the Resource Management Act. It is the responsibility of each council to establish its own approach to this duty, not the responsibility of the Ministry for the Environment

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. With the greatest of respect, the Minister is making no attempt whatsoever to answer the question. We know where the Treaty of Waitangi is referred to in the Resource Management Act, and any other legislation. I am asking her whether her ministry has precisely defined these principles---not whether they are in some other Act, or whether some local government has had regard to them, or some iwi understands them and they are before local government. I am asking her whether her ministry understands these principles, whether they are defined, and, if so, what on earth they are.

Mr SPEAKER: The member can criticise the Minister's answer. There is no doubt that that is the case, and he probably will. That is his right as a member of Parliament. I have to ascertain whether the question was addressed. I ascertained that it was.

Rt Hon. Winston Peters: Why is the Minister unable to answer the question as to the precise definition her ministry is giving to these principles, and how will people at local government level who are required to administer these principles, about which she so gaily speaks, ever know whether they are operating within the confines of any such principles, given that she will not describe what they are?

Hon. MARIAN HOBBS: In my experience most local councils work in a positive partnership with Māori. They have the autonomy to decide on the approach they take, so long as they meet their obligations under section 8 of the Resource Management Act. The Ministry for the Environment is working alongside them at a practical level, assisting and promoting dialogue and achieving sustainable environmental outcomes.

Rt Hon. Winston Peters: I raise a point of order, Mr Speaker. You will have observed other Parliaments around the world---the Western

World, in particular---and democracies similar to ours. I have never seen, either in this country's past or in any other countries where I have observed their Parliaments, a Minister getting away with that sort of evasive, obscurantist approach to her responsibilities. I am asking her what the principles of her ministry are. She has been asked two questions now, and, no doubt, there will be another question from my colleagues. But if that is what the answers are to be, and she is allowed to get away with that, then this parliamentary question time is a total waste of time.

Mr SPEAKER: The member knows I am not responsible for the quality, or otherwise, of the Minister's replies. I listen to the replies and I ascertain whether there can be further supplementary questions. I have to ascertain whether the question was addressed. I ruled that it was addressed.

Hon. Ken Shirley: I raise a point of order, Mr Speaker. You will have noted that Opposition parties have for many months now---all of this year and back into last year---been seeking from the Government, in numerous questions, a clear definition of the principles of the Treaty of Waitangi that it keeps importing and imposing on legislation. The Minister's reply to the question you referred to before, said that local government is bound to observe section 8 of the Act; and, of course, section 8 refers to the principles of the Treaty of Waitangi. So it is a circular argument. Therefore, I stress upon you the frustration of Opposition members when Minister after Minister, week after week, carries on obfuscation and will not reply and tell the Parliament what these principles are.

Mr SPEAKER: I take the member's point. Ever since I have been in this House there have been people who have asked questions and have often not been satisfied with the answer. Indeed, I have asked hundreds in my time, and have often not been satisfied. I have then taken further steps, outside the Chamber, by way of statement or further question. I cannot rule on the actual competence, or otherwise, of the answer. I rule on whether the question is addressed. I rule that it has been.

Martin Gallagher: What has the Ministry for the Environment done to help councils meet their obligations under section 8 of the Resource Management Act?

Hon. MARIAN HOBBS: The Ministry is working at a practical level with councils and iwi to assist in the implementation of the Resource Management Act. Among other things, it has produced a guide for local authorities and iwi on building agreements, called Talking Constructively, a good-practice guide on iwi-council interaction.

Alec Neill: When referring to local government, what principles is the Minister referring to specifically?

Hon. MARIAN HOBBS: In answer to the written question that the Rt Hon. Winston Peters asked, I referred him back to section 8, in full, of the Resource Management Act. Let me read it to members: ``In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi''. That Act was passed by the previous National Government, which incorporated that statement in its legislation.

Gerry Brownlee: I raise a point of order, Mr Speaker. Just in that little answer I think you have heard a perfect example of the point Mr Shirley was attempting to make when he spoke to you a few moments ago. I do not want to ask you to go over your position again; I would

simply seek leave for all parties that have asked questions on this matter so far to have further supplementary questions, so that we can get outside the circular argument and find out exactly what the principles are.

Mr SPEAKER: Leave is sought for members to have further supplementary questions outside the usual ones that I am going to allow. Is there any objection? There is objection.

Stephen Franks: Given that the Minister cannot know what is consistent with the principles of the Treaty of Waitangi without knowing what those principles are, and given that she said in the answer that the local authority had been consistent with them, can she tell us what those principles are; if not, why not?

Hon. MARIAN HOBBS: I want to take this very slowly. The question asked by the Rt Hon. Winston Peters was whether I considered that the Western Bay of Plenty District Council's approach was consistent with the principles of the Treaty of Waitangi. The answer I gave to him personally and in the written question was: "Yes. They are consistent with the duty to take the principles of the Treaty of Waitangi into account, because they are working according to the Resource Management Act." Then I went on, in answer to a further question from over on the other side of the Chamber, to point out that the Resource Management Act uses a terminology inside section 8: "shall take into account the principles of the Treaty of Waitangi". So I am asked then: "Are they fulfilling their job?". Yes, they are fulfilling their job, as is determined by them.

Nandor Tanczos: Does the Minister agree that Te Tiriti o Waitangi actually guarantees hapū the right to exercise tino rangatiratanga in their role as mana whenua and kaitiaki; and does she think that the provisions of the Resource Management Act adequately give effect to that basic right?

Hon. MARIAN HOBBS: The principles of the Resource Management Act lay out that local government must take into account the principles of the Treaty of Waitangi.

Mr SPEAKER: The time for supplementary questions has concluded, but I thought I would, on this Thursday afternoon, allow the Rt Hon. Winston Peters a final supplementary question.

Rt Hon. Winston Peters: Having regard to the questions I have already asked this Minister on this matter, and in respect of Standing Order 372(2), which requires her to be concise and confined to the subject, what are the principles of the Treaty of Waitangi that are being put in place in her ministry; and can she explain them to me---yes or no?

Hon. MARIAN HOBBS: In its work, the Ministry for the Environment makes use of the 1989 document Principles for Crown Action on the Treaty of Waitangi, which was issued by the Department of Justice. Those principles are subject to ongoing discussion between Māori and the Crown, and are subject to interpretation by the courts.

Gerry Brownlee: I raise a point of order, Mr Speaker. I appreciate that you were being generous in allowing Mr Peters a "final supplementary", as you call it, on the last question of the day. I just point out that it was our party that sought leave to have extra supplementary questions, so it is a little disappointing to find that while the House might turn us down, you then turn around and give an extra supplementary question to a member who leads a minor party. I would appreciate it if we could have one further supplementary question.

Mr SPEAKER: I must apologise for my weakness at the end of the

week. Occasionally I make mistakes. On this occasion, I did; I should not have allowed a supplementary question. I have now concluded question time.

**22 Apr, Hansard Question Supplement Vol 52, p1045**  
**Written Question 4463**

RODNEY HIDE to the Minister in charge of Treaty of Waitangi Negotiations: Did she have a specific input into the Sovereign Yacht development at Hobsonville; if so, what was that input, and on what date was it?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: I have had no specific input into the Sovereign Yacht development.

As I have previously advised in a written response to your Official Information Act request, the Office of Treaty Settlements provided advice to the Ministry of Economic Development on the Protection Mechanism for Surplus Crown Land process and on registered Waitangi Tribunal claims over the general area of Hobsonville.

The Protection Mechanism did not apply as the descendants of the former owners purchased the land under the section 40 offer-back provision of the Public Works Act 1981, a statutory obligation that takes precedence over the Protection Mechanism process in any disposal of Crown land.

**30 Apr, 46<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 600, p15813**  
**Answers to Oral Questions - Treaty of Waitangi – Principles**

Treaty of Waitangi---Principles

10. Rt Hon. WINSTON PETERS (Leader---NZ First) to the Minister in charge of Treaty of Waitangi Negotiations: Following my previous attempts to have the Government identify the principles it is committed to implementing in pursuit of its intentions to honour the Treaty of Waitangi, can she now state precisely how many sets of principles there are and describe precisely what they mean?

Hon. MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations): There is one set of principles. Those principles were published by the fourth Labour Government in 1989, to assist the Government when making decisions about matters related to the treaty. In summary they are as follows. First, there is the principle of government: the Government has the right to govern and to make laws. Second, there is the principle of self-management: iwi have the right to organise as iwi and, under the law, to control their resources as their own. Third, there is the principle of equality: all New Zealanders are equal before the law. Fourth, there is the principle of reasonable cooperation: both the Government and iwi are obliged to accord each other reasonable cooperation on major issues of common concern. Fifth, there is the principle of redress: the Government is responsible for providing effective processes for the resolution of grievances, in the expectation that reconciliation can occur.

Rt Hon. Winston Peters: If that is the case why on earth, then, did the Prime Minister answer as follows on 13 February 2002: ``I am not aware of an official Government statement on the principles of the treaty." , and, further, why did she herself produce a paper on

20 July 2000, which is not owned up to by the rest of her colleagues, then refer to a Crown Law paper of 1989, and today take Mr Robson's view, the one that he took on 24 April and that refers to the other document that was released at that time; what are the principles that she is talking about?

Hon. MARGARET WILSON: The principles are those of 1989 that this member referred to in his own question, which is what the Prime Minister was referring to. As I recall that exchange, it was slightly confused in terms of the meaning of the question, and it was really addressed to whether, in fact, there were specific principles relating to particular areas of policy implemented by the Government. The principles that are incorporated in legislation, and our decisions at the moment, are based on the principles published in 1989. But they are principles---they are not rules; they are not prescriptions. Therefore, in the light of specific circumstances they have to be given practical expression to, and that was what was being referred to in that sense.

Mita Ririnui: How are the principles of the Treaty of Waitangi applied in practice?

Hon. MARGARET WILSON: There are many examples of how that happens in practice. For example, the principle of self-management is seen when Māori deliver for Māori their own health and education programmes. Also, in the area of the arts there are currently nine iwi working with Creative New Zealand to develop strategic plans to help Māori upskill themselves in business practice and management in the arts. As further examples, under the principle of equality various measures have been taken to address inequalities for Māori in the areas of employment and housing. Work and Income's Māori employment strategy includes improving job placement rates for Māori clients. This Government has worked hard to address housing problems. Measures include restoring income-related rents for low-income State house tenants and addressing the issue of substandard housing in isolated rural communities.

Hon. Georgina te Heuheu: What principles of the Treaty of Waitangi have been applied in setting up the Māori Television Service, and how will the Government judge whether those have been fulfilled?

Hon. MARGARET WILSON: The principle that would be applicable in the instance that the honourable member refers to would be the principle of self-management: iwi have a right to organise as iwi, and, under the law, to control their own resources. We have, in fact recognised in that particular instance that language and communication is a particularly important area. That is a practical example of where an attempt has been made to give effect to that general principle.

Rodney Hide: How did the Government apply the principles of reasonable cooperation and redress when it contrived the sale of land at Hobsonville airbase to Sovereign Yachts through the descendants of the former owner, so cutting local Māori entirely out of the process?

Hon. MARGARET WILSON: As the honourable member knows well from the answers to the written questions he has given me, and also from an answer to an official information request---

Rodney Hide: I haven't got the answers yet.

Hon. MARGARET WILSON: Clear your mailbox, dear. The member will note that there was no such interference with anyone's rights. That was the advice that was given after an investigation of that matter.

Mr SPEAKER: I say to the member who asked the question that his



party has one more supplementary question this question time. He can use it now if he wishes.

Rt Hon. Winston Peters: Why is the Minister trying to say that the Prime Minister was confused, when the question was very obvious? The question was why has the Prime Minister allowed her officials and Ministers to refer to partnership when neither that word nor the concept appears anywhere in the treaty or in the official Labour Government statement of the principles, when the concept in this Government's hands is just a spurious justification for cronyism and racism, and when the Prime Minister answered: "I am not aware of an official Government statement on the principles of the treaty."? Why is the Minister now trying to say that the Prime Minister was confused or the question was confused, when it is obvious from the letter and the words that have been read here that the Prime Minister believed then, and her Ministers maintained then, that there was no official statement on the principles of the treaty?

Hon. MARGARET WILSON: In my experience the Prime Minister is rarely confused, but the honourable member who just asked the question frequently is.

Rt Hon. Winston Peters: Point of order---

Mr SPEAKER: No, no. The Minister knows she cannot say that. I want her to withdraw and apologise.

Hon. MARGARET WILSON: I withdraw and apologise. I shall attempt to answer the question, but I must say it is a little difficult to follow the point that the member is making. I think it relates to why partnership is not mentioned specifically in the treaty but is mentioned in the principles and in this Government's response, when it attempts to operationalise or concretise the principles of the treaty and its specific terms. It seemed that the notion of partnership best expressed the overall intent of two people coming together in order to be able to work together through a variety of issues, many of which are very difficult from time to time, in a spirit of cooperation.

Rt Hon. Winston Peters: I seek leave to table a paper of June 2001 to the New Zealand Law Society, by Professor Matthew Palmer, from a decent university law school called Victoria, on the question of the Treaty of Waitangi principles, where he points out that the Government has no policy on this matter and has failed to announce any statements on this matter.

Mr SPEAKER: Is there any objection to that course of action? There is not.

Hon. Richard Prebble: I raise a point of order, Mr Speaker. I appreciate that you do not have the power to direct questions to different Ministers, but the House has just been treated to a waste of time. We had questions that were clearly directed to the Prime Minister and asked why the Prime Minister was doing various things. Then the Minister in charge of Treaty of Waitangi Negotiations stood up and said it was very difficult for her to answer. Of course it was, but--[Interruption]. On behalf of the Rt Hon. Winston Peters, that is the point I was trying to make. It would be helpful if you were to indicate to Ministers that it is unparliamentary to refer questions that are clearly better answered by the Minister they are originally directed to than by another Minister, who then stands up and treats the House with contempt when she says she cannot really answer them.

Mr SPEAKER: The House received a very full reply from the Minister in her first answer. However, that is an issue that has come before

the Standing Orders Committee and, of course, can continue to do so.

Rodney Hide: I seek leave to table a series of documents between the lawyers for Ngāti Whātua and this Government over the disposal of the land at Hobsonville.

Documents, by leave, laid on the Table of the House.

**11 Jun, Hansard Question Supplement Vol 52, p1620**

**Written Question 7305**

Hon MURRAY McCULLY to the Minister of Māori Affairs: When was Dr Michael Bassett appointed as a member of the Waitangi Tribunal, what claims have been heard since his appointment, and in how many of those claims has Dr Bassett participated?

ANSWER :

Hon PAREKURA HOROMIA (Minister of Māori Affairs) replied: The Honourable Dr Michael Bassett was first appointed as a member of the Waitangi Tribunal for a term of three years from 1 September 1994. The Waitangi Tribunal has heard many claims since that time, most of them grouped into district inquiries involving multiple claims for hearing purposes. I can inform the honourable member that of 7 district inquiries heard since Dr Bassett was appointed to the Tribunal, Dr Bassett has been a member of 2 of those inquiry panels, and he was also a member on one single issue contemporary claim.

The two districts involved a total of 58 and 28 claims respectively, and both inquiries have yet to report. I am advised that these commitments have engaged Dr Bassett actively as a part-time member since 1994 to the present time.

**11 Jun, Hansard Question Supplement Vol 52, p1621**

**Written Question 7306**

Hon MURRAY McCULLY to the Minister of Māori Affairs: How many days has Dr Michael Bassett sat on Waitangi Tribunal panels in each year since his appointment?

ANSWER :

Hon PAREKURA HOROMIA (Minister of Māori Affairs) replied: The Department for Courts has advised me that the figures are as follows:

Year	Member day	Inquiry
1994/1995	1	Kiwifruit Marketing
1995/1996	8	Kiwifruit Marketing (1 Claim)
1996/1997	Nil	
1997/1998	6	Tauranga moana (47 claims)
	22	Kaipara I (8 claims)
1998/1999	15	Tauranga moana (47 claims)
	19	Kaipara II (10 claims)
1999/2000	16	Tauranga moana (58 claims)
	14	Kaipara II/III (20 claims)
2000/2001	13	Tauranga moana (58 claims)
	21	Kaipara III (10 claims)

2001/2002      13      Tauranga moana (58 claims)  
Nil      Kaipara I/II/III (28 claims total for all stages)

**11 Jun, Hansard Question Supplement Vol 52, p1621**  
**Written Question 7307**

Hon MURRAY McCULLY to the Minister of Māori Affairs: Who determines which Members of the Waitangi Tribunal will sit on each claim, and on what criteria are those appointments made?

ANSWER :

Hon PAREKURA HOROMIA (Minister of Māori Affairs) replied: The Chairperson of the Waitangi Tribunal makes this decision. The Second Schedule to the Treaty of Waitangi Act 1975 prescribes a process and criteria for the Chairperson to use in constituting individual Waitangi Tribunal panels.

Each panel has a presiding officer, who is either the Chairperson, a Judge of the Māori Land Court appointed by the Chairperson, or an appointed member of the Tribunal who is a barrister or solicitor of the High Court of New Zealand of at least seven years' standing and is appointed by the Chairperson.

As well as a presiding officer, each Tribunal panel must consist of not less than two and not more than six appointed members of the Tribunal. In selecting these members, the Chairperson is likely to have regard to the requirements for a quorum of a Tribunal panel. These are that the presiding officer must be present, two other members of the panel must be present and that one of the members present must be Māori.

**17 Oct, 47<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 603, p1509**  
**Answers to Oral Questions – Waitangi Tribunal – Funding**

Waitangi Tribunal---Funding

10. MURRAY SMITH (United Future) to the Minister for Courts: Is she satisfied the Waitangi Tribunal has adequate research funding to progress Treaty claims in a timely fashion?

Hon. MARGARET WILSON (Minister for Courts): Yes.

Murray Smith: If that is the case, why is the tribunal able to properly fund only the Gisborne claim research, and when will a similar level of funding be provided for claims relating to the Wairarapa, Wanganui, the East Coast, Rotorua, Wairoa, the King Country, Taupo, Kaingaroa, Hawke's Bay, and the Bay of Islands, all of which are in the research planning or casebook research stages?

Hon. MARGARET WILSON: Even if research funding was available for all those claims at once, the resources required in terms of personnel and counsel, etc. would not be available to hear all those cases at once. The claimants themselves would probably not be ready. Research funding is but one aspect of the process of the settlement of claims.

Russell Fairbrother: Could the Minister explain the process of research used by the Waitangi Tribunal for its inquiry into claims?

Hon. MARGARET WILSON: The tribunal groups historical claims into districts for the purpose of inquiry, and produces a casebook of research. The casebook of research falls into three main groups. The

first is research commissioned by the Crown Forestry Rental Trust, the second is research commissioned by the claimants, with funding from the Crown Forestry Rental Trust or the tribunal or themselves, and the third is research commissioned by the tribunal and produced by external contractors or internal research staff. The Crown Forestry Rental Trust funds and commissions most of the research projects that make up the tribunal's casebook. The funding, in other words, comes from outside the tribunal. The Crown also carries out its own research that may be required during the inquiry process.

Hon. Georgina te Heuheu: Is the Minister aware that the Waitangi Tribunal would need a further injection of funding of between \$2 million and \$2.5 million over the next 6 years to enable it to reach completion of the remaining casebooks, so that it could move forward on the hearings; if so, what does she intend to do about that?

Hon. MARGARET WILSON: The new system that is being used by the tribunal to reach that objective of 2010 for casebook claims has been experimented with during the Gisborne inquiry. We are in the process, at the moment, of evaluating that. Extra funding of \$500,000 has been available to support that. I have no doubt that extra funding will be required in the future after the evaluation is done.

Stephen Franks: What would she consider to be an ending of the grievance industry in a timely fashion, given that on the achieved rate of disposal the 700 claims lodged will take at least another 400 years?

Hon. MARGARET WILSON: As I have just explained, the tribunal is now grouping claims by district. It is actually preparing a casebook for a district. The number of claims that fall within that district will be heard; they will not be heard individually. That is why the tribunal's estimate is 2010, and I believe that is realistic. If we can make it before then, we shall. The process is also designed to make sure that the claims will be settled, and that there will be durable settlements.

Metiria Turei: In order to progress the treaty claims in a timely fashion, will the Minister commit to providing all the necessary funding to enable the process currently being trialled by the tribunal in the Gisborne hearings---and, by all reports, proving to be a success---so that that process can be used effectively in future tribunal hearings?

Hon. MARGARET WILSON: That is a process we are undertaking at the moment. There is an evaluation of what happened at Gisborne, and, as a result of that, a business case will be prepared if extra funding is required.

Murray Smith: What specific additional resources is the Minister prepared to make available to the tribunal for report writing, given that there are currently only four persons in the report-writing team and that, under the new interlocutory process, team members are required to sit through the whole tribunal process?

Hon. MARGARET WILSON: That is part of the evaluation of the Gisborne process, and if that evaluation identifies there will be a need for more takers, then, yes, there will be.

#### **24 Oct, Hansard Question Supplement** **Written Question 11982**

Rt Hon WINSTON PETERS to the Minister in charge of Treaty of Waitangi Negotiations: How long does she envisage it will take for all

outstanding Treaty claims to be settled, and what are the possible delays?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: At this stage, it is difficult to assess how long it will take to settle all outstanding historical Treaty of Waitangi claims. A key uncertainty relates to when various claimant groups will be ready to enter into negotiations with the Crown. Many groups will wish to have their claims heard first by the Waitangi Tribunal, and possibly will wish to wait for the Tribunal to issue a report. Further, at the completion of the Waitangi Tribunal process, claimant groups will need time to work through internal mandate and representation issues, so that they are in a position to enter into negotiations towards durable and final settlements.

Another factor that is likely to impact on the length of the settlement programme is the extent to which claimant groups are willing to join together for negotiations, as large natural groups, for the settlement of all their claims. Negotiations with smaller groups, or negotiations covering only some of the claims of the group (non-comprehensive settlements) will mean more negotiations are required than otherwise, and this will tend to delay completion of the settlement process.

The pace of settlements has been increasing. Currently, the Crown is achieving a settlement with a claimant group for all its historical claims approximately every 6 months. In the longer term this rate may increase further, as more claimant groups seek to enter negotiations for the settlement of their claims.

#### **24 Oct, Hansard Question Supplement Written Question 11983**

Rt Hon WINSTON PETERS to the Minister for Courts: What claims are currently before the Waitangi Tribunal, what claims are backlogged, and of these, when are they due to appear before the Tribunal?

ANSWER :

Hon MARGARET WILSON (Minister for Courts) replied: There have been 998 claims registered with the Waitangi Tribunal in the 27 years since 1975. Of these, the great majority are historical land and resource claims which the Tribunal is dealing with in groups on the basis of geographical inquiry districts. The Tribunal has 37 inquiry districts covering the country. The current situation is shown in the following disposition of claims:

1. Three inquiry districts involving 8 claims have been settled by negotiation including the large Ngai Tahu and Waikato---Tainui settlements.
2. Three districts involving 50 claims have been reported on by the Tribunal and are currently in negotiation.
3. Three districts involving 17 claims have been reported on by the Tribunal but are not yet in negotiation.
4. Four districts involving 118 claims have completed hearings and

are awaiting a Tribunal report.

5. Four districts involving 142 claims are currently being heard by the Tribunal or are in the interlocutory conferencing stage of the hearing process.
6. Three districts involving 114 claims are in research in preparation for inquiry.
7. Seventeen districts involving approximately 470 claims remain to be inquired into by the Tribunal.
8. Apart from the grouped claims, 40 individual claims on various issues have been reported on by the Tribunal and a further 7 await the issue of a Tribunal report.
9. There are 45 generic claims that will remain to be dealt with after the district historical claims are completed.

The Tribunal has an integrated district inquiry programme aimed at completing all historical claims by 2010/11.

**25 Oct, Hansard Question Supplement**  
**Written Question 12044**

Hon MURRAY McCULLY to the Minister in charge of Treaty of Waitangi Negotiations: How much has the Office of Treaty Settlements spent on each consultation exercise undertaken by it with Māori since 1 July 2000, on what specific issues did it consult, and how was the consultation undertaken?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied:  
Consultation with overlapping claimants

When OTS is in formal negotiations with a claimant group, OTS consults overlapping claimants as part of those negotiations. For example, in relation to the Ngati Awa settlement, consultation was undertaken by way of correspondence to all claimants with claims lodged with the Waitangi Tribunal whose claims potentially overlapped with the Ngati Awa claim. Claimants were invited to comment on redress that the Crown had offered to Ngati Awa, which had been offered subject to the Crown being satisfied about overlapping claim issues. OTS communicated further with the claimant groups that responded, by way of correspondence, telephone conversations and meetings, and I also met with overlapping claimants. The overlapping claimants were notified of the Crown's provisional decision on the contested redress, taking into account their comments, and were later notified of the Crown's final decision taking into account any additional comments that overlapping claimants had.

This process of consultation was commented on by the Waitangi Tribunal in its Ngati Awa Settlement Cross Claims Report 2002.

The cost of consulting with overlapping claimants cannot be identified separately from the cost of the negotiation of the claim

concerned.  
Protection Mechanism

The Officials Committee for the Protection of Surplus Crown Land is essentially established to consult with claimants about whether to landbank surplus properties that enter the Protection Mechanism. Surplus properties are advertised monthly in national Sunday newspapers, and information about the properties is sent to each registered applicant (which includes all claimants with a claim lodged with the Waitangi Tribunal) and other interested parties. The cost to OTS of operating the Protection Mechanism is \$120,000 per annum.

Consultation over mandate

OTS consults claimant communities before the Crown considers whether to recognise a Deed of Mandate. This consultation follows a process undertaken by the mandated negotiators to obtain a mandate, which is expected to include hui and panui. The Crown will advertise the mandate in national and local newspapers and seek comments. The cost of each time a mandate is advertised can be up to \$15,000. There have been three mandates publicised in the last year.

During negotiations, OTS may consult with particular dissenting groups as appropriate. The cost of that consultation is not separately identified from the cost of the negotiation concerned.

**6 Nov, 47<sup>th</sup> Parliament, 1<sup>st</sup> Session, Hansard Vol 603, pp1658-1670**  
**Treaty of Waitangi (Final Settlement of Claims) Bill**

See *Transcripts of Debates*, p346

**15 Nov, Hansard Question Supplement**  
**Written Question 13068**

Hon KEN SHIRLEY to the Minister for Courts: What are the dates and titles of the papers and reports she received from the Department for Courts during October 2002?

ANSWER :

Hon MARGARET WILSON (Minister for Courts) replied: The following reports were received from the Department for Courts in October 2002.

[Irrelevant reports omitted]

18/10/02 Final terms of reference for the independent assessment of the Waitangi Tribunal new inquiry process

**20 Dec, Hansard Question Supplement**  
**Written Question 16125**

Rt Hon WINSTON PETERS to the Minister of Health: Is her Ministry involved in a claim to be heard by the Waitangi Tribunal for lands, islands, rivers, lakes, forests, harbours, seas, sea shores, fisheries, wahi tapu and all other taonga within the Wellington region; if so, why?

ANSWER :

Hon ANNETTE KING (Minister of Health) replied: It has not been possible to obtain the information required to enable me to respond to this question by the due date. I undertake to provide the member with a copy of the information once it is available. A copy will also be lodged with the **Parliamentary** Library for perusal by other members.

**20 Dec, Hansard Question Supplement**  
**Written Question - 16136**

Rt Hon WINSTON PETERS to the Minister in charge of Treaty of Waitangi Negotiations: Has any public money been allocated to Ngati Tama, and other hapū or iwi, in the form of capacity building grants to enable interest in the WAI 735 claim or any other claim before the Waitangi Tribunal to be advanced; if so, why, and how much?

ANSWER :

Hon MARGARET WILSON (Minister in charge of Treaty of Waitangi Negotiations) replied: As Minister in charge of Treaty of Waitangi Negotiations I am not responsible for providing "capacity building grants" to Māori groups.

However, the Office of Treaty Settlements makes claimant funding available to assist claimants with negotiations. Claimant funding is made available once a claimant group's mandate has been recognised by the Crown.

Presently, neither Wai 735 claimants nor any other Ngāti Tama claim in the Wellington area has a mandate recognised by the Crown. For this reason no claimant funding has been received by Wai 735 claimants or any other Ngāti Tama claimants in the Wellington area.